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Tuesday
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WASHINGTON, DC
WHEN: June 17, 1997 at 9:00 am
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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Electronic Bulletin Board
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 35

[Docket No. FV–96–35–1 FIR]

Regulations Issued Under the Export Grape and Plum Act; Exemption From Size Regulations for Black Corinth Grapes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule the provisions of an interim final rule exempting the Black Corinth variety of grapes from the minimum bunch and berry size requirements issued for grapes under the Export Grape and Plum Act. This change expands the markets for this variety of grapes and increases their fresh utilization. This rule was recommended by the California Grape and Tree Fruit League after the proposal had been presented at industry meetings of growers and handlers.

EFFECTIVE DATE: May 21, 1997.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 S.W. Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724 or FAX (503) 326–7440; or William R. Addington, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523–S, Washington, DC 20090–6456; telephone: (202) 720–2412 or FAX # (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under authority of the Export Grape and Plum Act, as amended, [7 U.S.C. 591–599], hereinafter referred to as the "Act." This rule amends "Regulations Issued Under Authority of the Export Grape and Plum Act" [7 CFR Part 35].

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

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. 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. In the United States there are approximately 250 handlers of table grapes that are subject to regulations under the authority of the Export Grape and Plum Act, and approximately 1300 grape producers. Small agricultural service firms, which include handlers of grapes, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those whose annual receipts are less than $500,000. The majority of grape handlers and producers regulated under the Export Grape and Plum Act may be classified as small entities.

Black Corinth grapes represent less than one percent of all grapes grown in the United States. Supplies of this variety are provided by many small growers located in California and Arizona who are prepared to ship grapes into fresh markets abroad. As the export markets develop for Black Corinth grapes, economic opportunities for small growers, marketers, and exporters are expected to improve. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Section 35.11 of the "Regulations issued under authority of the Export Grape and Plum Act" establishes minimum size and quality requirements for export shipments of any variety of vinifera species table grapes. Prior to the issuance of the interim final rule, export shipments of grapes being shipped to Japan, Europe, or Greenland were required to meet a minimum grade of U.S. Fancy Table as specified in the U.S. Standards for Grades of Table Grapes (7 CFR Part 51, sections 51.880–51.992), except that the minimum bunch size shall be one-half pound. Table grapes shipped to countries other than Japan, Europe, Greenland, Canada, or Mexico were required to meet the requirements of U.S. No.1 Table, except that the minimum bunch size shall be one-fourth pound. (Shipments to Canada and Mexico are currently not regulated under this part.) The U.S. Fancy Table grade includes a requirement for unlisted varieties (such as Black Corinth), that 90 percent of the berries, by count, in each bunch shall be at least ten-sixteenths of an inch in diameter. Similarly, the U.S. No. 1 Table grade includes a requirement for unlisted varieties (such as Black Corinth), that 75 percent of the berries, by count, shall be at least nine-sixteenths of an inch in diameter.

The Board of Directors of the California Grape and Tree Fruit League (Board), which represents a substantial portion of the fresh table grape industry, unanimously recommended that the Black Corinth variety of grapes be exempted from the minimum bunch and berry size requirements established for export shipments.

The Board advised that a change is needed because the Black Corinth variety (sometimes referred to as Zante Currants) are characteristically of high quality but of very small bunch and berry size. The small size prevents this variety from meeting the minimum size requirements established for export shipments.

Traditionally, this variety of grapes had been dried for use as raisins. As

oversupply conditions occurred in recent years for this variety, handlers within the industry were successful in developing fresh outlets. The variety received good consumer acceptance, primarily because of its unique size and sweetness.

Exempting the Black Corinth variety of grapes from the minimum bunch and berry size requirements for export shipments enables handlers to further expand their markets and increase fresh utilization. This improves the marketing of these varieties and increases returns to producers.

The interim final rule was issued on October 17, 1996, and published in the **Federal Register** (61 FR 54081, October 17, 1996), with an effective date of October 18, 1996. That rule amended § 35.11 Minimum requirements under regulations in effect under the Act. That rule provided a 30-day comment period which ended November 18, 1996. No comments were received.

After consideration of all relevant material presented, the information and recommendations submitted by the Board, and other information, finalizing the interim final rule, without change, as published in the **Federal Register** (61 FR 54081, October 17, 1996) is appropriate.

It is also found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action continues a relaxation of the requirements for export shipments of Black Corinth grapes; (2) the Board unanimously recommended this rule at a public meeting and all interested persons had an opportunity to provide input; (3) shipments of the Black Corinth variety of grapes have already begun; (4) handlers and producers of the Black Corinth variety of grapes are aware of this rule and they need no additional time to comply with the relaxed requirements; and (5) a 30-day comment period was provided for in the interim final rule and none were received.

List of Subjects in 7 CFR Part 35

Administrative practice and procedure, Exports, Grapes, Plums, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 7 CFR part 35 is amended as follows:

PART 35—EXPORT GRAPES AND PLUMS

Accordingly, the interim final rule amending 7 CFR part 35 which was published at 61 FR 54081 on October 17, 1996, is adopted as a final rule without change.

Dated: May 14, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–13128 Filed 5–19–97; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 110

RIN 3150–AF72

Facsimile Telephone Number and Address Change for the NRC's Office of the Secretary

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to change the name, address, and facsimile telephone numbers of the Docketing and Service Branch, Office of the Secretary. These amendments reflect the reorganization of the Office of the Secretary. These amendments are necessary to inform the public of these administrative changes to the NRC's regulations.

EFFECTIVE DATE: May 20, 1997.

FOR FURTHER INFORMATION CONTACT: Emile L. Julian, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–1966.

SUPPLEMENTARY INFORMATION: On April 21, 1997, the NRC changed the name of the Docketing and Service Branch, to the Rulemakings and Adjudications Staff. The facsimile telephone numbers for the Rulemakings and Adjudications Staff were changed from (301) 415–2275 and (301) 415–1672, to (301) 415–1101. The verification number has been changed from (301) 415–1977 to (301) 415–1966. Also, the e-mail address has been added. Current facsimile telephone numbers in use in the Office of the Secretary are still available.

Because this amendment deals with agency procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with a change in address and telephone number.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0036.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a currently valid OMB control number.

Regulatory Analysis

A regulatory analysis has not been prepared for this final rule because it is an administrative action that changes the address and telephone number of an NRC office.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule because this rule does not involve any provisions that would impose a backfit as defined in § 50.109(a)(1). Therefore, a backfit analysis is not required for this rule.

List of Subjects

10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalties, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recording requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 2 and 110.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS AND ISSUANCE OF ORDERS

1. The authority citation for part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 114(f), Pub. L. 97–425, 96 Stat. 2213, as amended (42 U.S.C. 10134(f)); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 161 b, i, o, 182, 186, 234, 68 Stat. 948–951, 955, 83 Stat. 444, as amended (42 U.S.C. 2201 (b), (i), (o), 2236, 2282); sec. 206, 88 Stat 1246 (42 U.S.C. 5846). Sections 2.205(j) also issued under Pub. L. 101–410, 104 Stat. 890, as amended by section 31001(s), Pub. L. 104–134, 110 Stat. 1321–373 (28 U.S.C. 2461 note). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Subpart L also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.701, paragraphs (a)(2) and (c) are revised to read as follows:

§ 2.701 Filing of documents.

(a) * * *

(2) by mail or addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

* * * * *

(c) Filing by mail, telegram or facsimile will be deemed to be complete as of the time of deposit in the mail or with a telegraph company or upon facsimile transmission.

§ 2.708 [Amended]

3. In § 2.708, paragraph (f), the address is revised to read, "U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff."

4. In § 2.712, paragraph (d)(4) is revised to read as follows:

§ 2.712 Service of papers, methods, proof.

* * * * *

(d) * * *

(4) The addresses for the Secretary are:

(i) First class mail: Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

(ii) Express mail: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemakings and Adjudications Staff.

(iii) Facsimile: (301) 415–1101, verification number is (301) 415–1966; and e-mail: SECY@NRC.gov.

* * * * *

§ 2.802 [Amended]

5. In § 2.802, paragraph (a), the address in the last sentence is revised to read, "U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff."

6. In § 2.1203, paragraphs (b)(1) and (b)(2) are redesignated as paragraph (b)(1)(i) and (b)(1)(ii) respectively and revised; and the undesignated paragraph following newly redesignated paragraph (b)(1)(ii) is designated as paragraph (b)(2) and revised to read as follows:

§ 2.1203 Docket; filing; service.

* * * * *

(b) * * *

(1)(i) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(ii) By mail, telegram or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

(2) Filing by mail, telegram or facsimile is complete as of the time of deposit in the mail, with the telegraph company or upon facsimile transmission. Filing by other means is complete as of the time of delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary.

* * * * *

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

7. The authority citation for part 110 continues to read as follows:

Authority: Secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec 5, Pub. L. 101–575, 104 Stat 2835 (42 U.S.C. 2243).

Sections 110.1(b)(2) and 110.1(b)(3) also issued under Pub. L. 96–92, 93 Stat. 710 (22 U.S.C. 2403). Section 110.11 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152) and secs. 54c and 57d., 88 Stat. 473, 475 (42 U.S.C. 2074). Section 110.27 also issued under sec. 309(a), Pub. L. 99–440. Section 110.50(b)(3) also issued under sec. 123, 92 Stat. 142 (42 U.S.C. 2153). Section 110.51 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 110.52 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42 (a)(9) also issued under sec. 903, Pub. L. 102–496 (42 U.S.C. 2151 *et seq.*).

§ 110.64 [Amended]

8. In § 110.64(e), –0001 is inserted after Washington, DC 20555.

§ 110.81 [Amended]

9. In § 110.81(b) the address is revised to read, "U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff."

§ 110.89 [Amended]

10. In § 110.89(a), the address is revised to read, "U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff."

Dated at Rockville, Maryland, this 13th day of May, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–13187 Filed 5–19–97; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94–SW–20–AD; Amendment 39–10033; AD 97–11–04]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 412 and 412EP Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. (BHTI) Model 412 and 412EP helicopters, that requires creation of a component history card or equivalent record using a Retirement Index Number (RIN) system; establishes a system for tracking increases to the accumulated RIN; and establishes a maximum accumulated RIN for certain main rotor masts (masts) and main rotor spline plates (spline plates). This amendment is prompted by fatigue analyses and tests that show certain masts and spline plates fail earlier than originally anticipated because of an unanticipated high number of takeoffs and external load lifts utilizing high power settings, in addition to the time-in-service (TIS) accrued under normal operating conditions. The actions specified by this AD are intended to prevent fatigue failure of the mast or spline plate, which could result in failure of the main rotor system and subsequent loss of control of the helicopter.

EFFECTIVE DATE: June 24, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Uday Garadi, Aerospace Engineer, FAA, Rotorcraft Certification Office, Rotorcraft Directorate, Fort Worth, Texas 76193–0170, telephone (817) 222–5157, fax (817) 222–5959.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to BHTI Model 412 and 412EP helicopters was published in the **Federal Register** on November 20, 1996 (61 FR 59034). That action proposed to require, within the next 100 hours TIS, creation of a component history card or equivalent record using a RIN system for certain masts and spline plates used on the Model 412 and 412EP helicopters; establishment of a system for tracking increases to the accumulated RIN; and establishment of a retirement life of 80,000 RIN for certain helicopter masts and spline plates, and a retirement life of 60,000 RIN for certain other helicopter masts and spline plates.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with editorial changes. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 294 helicopters of U.S. registry will be affected by this AD, that it will take approximately (1) 8 work hours per helicopter to replace the mast and 10 work hours per helicopter to replace the spline plate; (2) 2 work hours per helicopter to create the component history card or equivalent record (record); (3) 10 work hours per helicopter to maintain the record each year, and that the average labor rate is $60 per work hour. Required parts will cost approximately $21,635 per mast and $5,675 per spline plate. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,602,790 for the first year, and each subsequent year to be $1,573,390. These costs assume replacement of the mast and spline plate in one-sixth of the fleet each year, creation and maintenance of the records for all the fleet the first year, and creation of one-sixth of the fleet's records and maintenance of the records for all the fleet each subsequent year.

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, 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 a new airworthiness directive to read as follows:

AD 97–11–04 Bell Helicopter Textron Inc.: Amendment 39–10033. Docket No. 94–SW–20–AD.

Applicability: Model 412 and Model 412EP helicopters with main rotor mast (mast), part number (P/N) 412–040–101–105, –109, –117, –121, –125, –127, or –129, and main rotor spline plate (spline plate) P/N 412–010–167–105 or P/N 412–010–177–101, –105, –109, –113, or –117, installed, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within 100 hours time-in-service (TIS) after the effective date of this AD, unless accomplished previously.

To prevent fatigue failure of the mast and spline plate, which could result in failure of the main rotor system and subsequent loss of control of the helicopter, accomplish the following:

(a) Create a component history card or an equivalent record for each affected mast and spline plate. Record the accumulated Retirement Index Number (RIN) on the mast and spline plate component history card(s) as follows:

(1) If the numbers of takeoffs (at any gross weight) and external load lift events are known, and those numbers do not include any external load operation in which the load was picked up at a higher elevation and released at a lower elevation, and the difference in elevation between the pickup point and the release point was 200 feet or greater (high power lift event), increase the accumulated RIN by one for each takeoff and external load lift.

(2) If the numbers of takeoffs (at any gross weight) and external load lifts are known, and the number of external load lifts includes a high power lift event, increase the accumulated RIN by two for each takeoff and two for each external load lift.

(3) For each hour TIS for which the numbers of takeoffs and external load lifts are unknown, and the number of external load lifts does not include a high power lift event, increase the accumulated RIN by 10 for each hour TIS.

(4) For each hour TIS for which the numbers of takeoffs and external load lifts are unknown, but the number of external load lifts does include a high power lift event, increase the accumulated RIN by 20 for each hour TIS.

(5) For each hour TIS for which the numbers of takeoffs and external load lifts are unknown, and it is unknown whether the external load lifts include any high-power lift event, increase the accumulated RIN by 20 for each hour TIS.

(b) After compliance with paragraph (a) of this AD, during each operation thereafter, maintain a count of each lift or takeoff performed and at the end of each day's operations, increase the accumulated RIN on the component history card as follows:

(1) Increase the RIN by 1 for each takeoff.

(2) Increase the RIN by 1 for each external load lift, or increase the RIN by 2 for each external load operation in which the load is picked up at a higher elevation and released at a lower elevation, and the difference in elevation between the pickup point and the release point is 200 feet or greater.

(c) Retire the mast and spline plate in accordance with the following:

(1) For the mast, P/N 412–040–101–105, –109, –117, or –127, used on the Model 412 helicopter upon reaching 10,000 hours TIS or 80,000 maximum RIN, whichever occurs first.

(2) For the mast, P/N 412–040–101–121, –125, or –129, used on the Model 412EP helicopter, upon reaching 10,000 hours TIS or 60,000 maximum RIN, whichever occurs first.

(3) For the spline plate, P/N 412–010–167–105 or P/N 412–010–177–101, or –109, used on the Model 412 helicopter, at 10,000 hours TIS or 80,000 maximum RIN, whichever occurs first.

(4) For the spline plate, P/N 412–010–167–105 or P/N 412–010–177–101, –105, –113, or –117, used on the Model 412EP helicopter, at 10,000 hours TIS or 60,000 maximum RIN, whichever occurs first.

(d) For spline plate, P/N 412–010–167–105 or P/N 412–010–177–101, –105, –113, or –117, installed on Model 412EP helicopters, at the next scheduled teardown inspection, beside the P/N on the side of the spline plate, vibro-etch "412HP" and annotate in the component history card or equivalent record "412HP/EP only" to reflect that this spline plate can only be installed on the Model 412EP helicopter, and not on any other Model 412 helicopter. Retire the spline plates that have been vibro-etched with "412HP" on or before accumulating 10,000 hours TIS or 60,000 RIN, whichever occurs first.

Note 2: Bell Helicopter Textron, Inc. Alert Service Bulletin No. 412–94–81, Revision B, dated March 4, 1996, pertains to this subject.

(e) 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, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

(f) 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 helicopter to a location where the requirements of this AD can be accomplished.

(g) This amendment becomes effective on June 24, 1997.

Issued in Fort Worth, Texas, on May 9, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–13084 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF STATE

Bureau of Political-Military Affairs

22 CFR Part 122

[Public Notice 2539]

Amendments to the International Traffic in Arms Regulations; Registration Fees for Manufacturers and Exporters

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule amends the International Traffic in Arms Regulations (ITAR) by increasing the registration fees for manufacturers and exporters of defense articles, defense services, and related technical data.

EFFECTIVE DATES: May 20, 1997.

FOR FURTHER INFORMATION CONTACT: Mary F. Sweeney, Compliance and Enforcement Branch, Office of Defense Controls, Bureau of Political-Military Affairs, Department of State (703–875–6644).

SUPPLEMENTARY INFORMATION: This final rule increases the fee schedule of those persons required to register with the Office of Defense Trade Controls, U.S. Department of State in accordance with Section 38 of the Arms Export Control Act (AECA) 22 U.S.C. 2778. These registration fees have not been adjusted on cost estimates grounds for providing this service since 1985. This increase will bring the registration fee schedule in line with the costs of administering registration. In carrying out this decision, amendments are being made to Part 122 of the International Traffic in Arms Regulations (ITAR). Registration fees received (or postmarked) prior to the effective date of this amendment will be honored under the previous fee rates.

These amendments involve a foreign affairs function of the United States. They are excluded from review under Executive Order 12866 (68 FR 51735) and 5 U.S.C. 553 and 554, but have been reviewed internally by the Department to ensure consistency with the purposes thereof.

In accordance with 5 U.S.C. 808, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (the "Act"), the Department of State has found for foreign policy reasons that notice and public procedure under section 251 of the Act is impracticable and contrary to the public interest.

List of Subjects in 22 CFR Part 122

Arms and munitions, Exports.

Accordingly, for the reasons set forth above, 22 CFR chapter I, subchapter M, part 122 is amended as follows:

PART 122—REGISTRATION OF MANUFACTURERS AND EXPORTERS

1. The authority citation for part 122 continues to read as follows:

Authority: Secs. 2 and 38, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778); E.O. 11958, 42 FR 4311, 1977 Comp. p. 79; 22 U.S.C. 2658.

2. Section 122.3 is amended by revising paragraph (a) to read as follows:

§ 122.3 Registration fees.

(a) A person who is required to register may do so for a period up to 4 years upon submission of a completed form DSP–9, transmittal letter, and payment of a fee as follows:

1 year—$600

2 years—$1,200

3 years—$1,800

4 years—$2,200

* * * * *

Dated: May 9, 1997.

Lynn E. Davis,

Under Secretary for Arms Control and International Security Affairs, Department of State.

[FR Doc. 97–13282 Filed 5–19–97; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 26

[TD 8720]

RIN 1545–AU26

Generation-Skipping Transfer Tax

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the generation-skipping transfer (GST) tax regulations under chapter 13 of the Internal Revenue Code (Code). This document amends the final regulations under section 2652 and is necessary to provide guidance to taxpayers so that they may comply with chapter 13 of the Code.

DATES: This regulation is effective on May 20, 1997.

For dates of applicability of these regulations, see Effective Date under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: James F. Hogan, (202) 622–3090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1995, the IRS published final regulations in the **Federal Register** (60 FR 66898) under sections 2611, 2612, 2613, 2632, 2641, 2642, 2652, 2653, 2654, and 2663. On June 12, 1996, a notice of proposed rulemaking deleting § 26.2652–1(a)(4) and two related examples was published in the **Federal Register** (61 FR 29714). No comments responding to the notice of proposed rulemaking were received, and no public hearing was requested or held. The final regulations are adopted as proposed.

Explanation of Provision

Section 2652(a)(1) provides generally, that the term *transferor* means—(A) In the case of any property subject to the tax imposed by chapter 11, the decedent, and (B) in the case of any property subject to the tax imposed by chapter 12, the donor. An individual is treated as transferring any property with respect to which the individual is the transferor. Under § 26.2652–1(a)(2), a transfer is subject to Federal gift tax if a gift tax is imposed under section 2501(a) and is subject to Federal estate tax if the value of the property is includible in the decedent's gross estate determined under section 2031 or section 2103. Under § 26.2652–1(a)(4), the exercise of a power of appointment that is not a general power of appointment is also treated as a transfer subject to Federal estate or gift tax by the holder of the power if the power is exercised in a manner that may postpone or suspend the vesting, absolute ownership, or power of alienation of an interest in property for a period, measured from the date of the creation of the trust, extending beyond any specified life in being at the date of creation of the trust plus a period of 21 years plus, if necessary, a reasonable period of gestation.

The purpose of the rule in § 26.2652–1(a)(4) was to impose the GST tax when it may not otherwise have applied. It was never intended to (nor could it) prevent the application of the tax pursuant to the statutory provisions that apply based on the original taxable transfer. To eliminate any uncertainty concerning the proper application of the GST tax, the regulations under section 2652(a) are clarified by eliminating § 26.2652–1(a)(4) and *Example 9* and *Example 10* in § 26.2652–1(a)(6) from the regulations.

Effective Date

These amendments apply to transfers to trusts on or after June 12, 1996.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of this regulation is James F. Hogan, Office of the Chief Counsel, IRS. Other personnel from the IRS and Treasury Department participated in its development.

List of Subjects in 26 CFR Part 26

Estate taxes, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR part 26 is amended as follows:

PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

Paragraph 1. The authority citation for part 26 continues to read, in part, as follows:

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

Par. 2. Section 26.2652–1 is amended as follows:

1. Paragraph (a)(4) is removed and paragraphs (a)(5) and (a)(6) are redesignated as paragraphs (a)(4) and (a)(5), respectively.

2. In newly designated paragraph (a)(5), *Examples 9* and *10* are removed and *Example 11* is redesignated as *Example 9*.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: May 1, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 97–13126 Filed 5–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–97–021]

RIN 2115–AE46

Special Local Regulations for Marine Events; The Great Chesapeake Bay Swim Event, Chesapeake Bay, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements regulations for the Great Chesapeake Bay Swim Event to be held on June 8, 1997. These special local regulations are needed to provide for the safety of participants and spectators on the navigable waters during this event. The effect will be to restrict general navigation in the regulated area for the safety of participants in the swim, and their attending personnel.

EFFECTIVE DATE: 33 CFR 100.507 is effective from 8:30 a.m. until 2 p.m., on June 8, 1997.

FOR FURTHER INFORMATION CONTACT: LT J. Driscoll, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Rd., Baltimore, MD 21226–1797, (410) 576–2676.

SUPPLEMENTARY INFORMATION: The March of Dimes will sponsor the Great Chesapeake Bay Swim Event on the Chesapeake Bay in the vicinity of the William P. Lane Jr. Memorial Twin Bridges. Approximately 600 swimmers will start from Sandy Point State Park and swim between the William P. Lane Jr. Memorial Twin Bridges to the Eastern Shore. A large fleet of support vessels will be accompanying the swimmers. Therefore, to ensure the safety of the participants and support vessels, 33 CFR 100.507 will be in effect for the duration of the event. Under provisions of 33 CFR 100.507, no vessels may enter the regulated area without permission of the Coast Guard patrol commander. Vessel traffic will be permitted to transit the regulated area as the swim progresses. As a result, maritime traffic should not be significantly disrupted.

Dated: May 8, 1997.

Kent H. Williams,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 97–13195 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08–97–015]

RIN 2115–AE46

Special Local Regulations; Memphis in May Sunset Symphony Lower Mississippi River Mile 735.0–736.0, Memphis, TN

AGENCY: Lower Mississippi River, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Memphis in May Sunset Symphony. This event will be held on May 24, 1997, from 7:00 p.m. until 9:30 p.m. at Memphis, TN. These regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations are effective from 7 p.m. to 9:30 p.m. on May 24, 1997.

FOR FURTHER INFORMATION CONTACT: CWO4 Frank E. Janes, Assistant Chief, Port Operations Department, USCG Marine Safety Office, Memphis, Tennessee at (901) 544–3941, ext. 226.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rule making for these regulations has not been published and good cause exists for making them effective in less than 30 days from the date of publication. Following normal rule making procedures would be impracticable. The details of the event were not finalized in sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date. Nevertheless, interested persons wishing to comment may do so by submitting written views, data, or arguments. Individuals wishing to comment should include their name and address, identify this notice (CGD08–97–015) and the specific section of the proposal to which the comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed envelope is enclosed.

Background and Purpose

The marine event requiring this regulation is a pyrotechnic display. The event is sponsored by the Memphis in May International Festival, Inc. The Memphis in May Sunset Symphony fireworks display in the Lower Mississippi River at approximately mile 735.0–736.0.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because of the event's short duration.

Small Entities

The Coast Guard finds that the impact on small entities, if any, is not substantial. The temporary rule occurs at night, during minimal usage of the river by small entities, and will hinder few, if any, vessels for a short period. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism Assessment

The Coast Guard has analyzed this action in accordance with the principles and criteria of Executive Order 12612 and has determined that this rule does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.C. of Commandant Instruction M16475.1B, (as revised by 61 FR 13563; March 27, 1996) this rule is excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, navigation (water), Reporting and Recordkeeping requirements, Waterways.

Temporary Regulations

In consideration of the foregoing, part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section 100.35–T08–015 is added to read as follows:

§ 100.35–T08–015 Lower Mississippi River at Memphis, TN.

(a) *Regulated Area:* Lower Mississippi River Mile 735.0–736.0.

(b) *Special Local Regulation:* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. "Participants" are those persons and/or vessels identified by the sponsor as taking part in the event. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessel assigned to patrol the event. The Coast Guard "Patrol Commander" is a Coast Guard commissioned, warrant, or petty officer who has been designated by Commanding Officer, Coast Guard Marine Safety Office Memphis.

(1) No vessel shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander may terminate the event at any time it is deemed necessary for the protection of life and/or property and can be reached on VHF–FM Channel 16 by using the call sign "PATCOM".

(c) *Effective Dates;* These regulations will be effective from 7 p.m. to 9:30 p.m. local time May 24, 1997.

Dated: April 30, 1997.

T.W. Josiah,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 97–13197 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD05–97–010]

RIN 2115–AA97

Safety Zone; Annapolis, Maryland, Severn River, Weems Creek

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone near the mouth of the Severn River. The safety zone is needed to protect marine traffic and spectators from potential hazards posed by the U.S. Navy flight demonstration team, the Blue Angels, as they perform low altitude maneuvers over the Severn River. The safety zone includes waters of the Severn River adjacent to the U.S. Naval Academy between the span of the Route 50 Bridge and a line drawn from the Naval Academy Light (LLNR 19785) east to Greenbury Point. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation is effective from 6 a.m. to 4 p.m. on May 20, 1997, and from 6 a.m. to 4 p.m. on May 21, 1997.

FOR FURTHER INFORMATION CONTACT:

Lieutenant James Driscoll, Marine Event Coordinator, Activities Baltimore, 2401 Hawkins Point Rd., Baltimore, Maryland 21226–1791, telephone number (410) 576–2676.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to control anticipated spectator craft and to provide for the safety of life and property on navigable waters during the event.

Discussion of the Regulation

The U.S. Naval Academy submitted an application to conduct a rehearsal and performance of the U.S. Navy flight demonstration team, The Blue Angels, on May 20 and May 21, 1997, respectively. In the past, Coast Guard patrol boats were provided to protect marine spectators during flight rehearsals and performances. During this event, six high-performance Navy aircraft will fly at low altitudes in various formations and maneuvers over the Severn River. This regulation establishes a temporary safety zone near the mouth of the Severn River between the span of the Route 50 Bridge and a line drawn from the Naval Academy Light (LLNR 19785) east to Greenbury Point. The regulation is required to control the movement of persons and vessels within the flight demonstration area. Entry into this zone is prohibited unless authorized by the Captain of the Port.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; and 49 CFR 1.46.

2. A new temporary section 165.T05–97–010, is added to read as follows:

§ 165.T05–97–010 Safety Zone; Annapolis, Maryland, Severn River, Weems Creek.

(a) *Location.* The following area is a safety zone: that segment of the Severn River adjacent to the U.S. Naval Academy between the span of the Route 50 Bridge and a line drawn from the Naval Academy Light (LLNR 19785) east to Greenbury Point. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port.

(b) *Effective dates.* This regulation is effective at 6 a.m. to 4 p.m. on May 20, 1997, and from 6 a.m. to 4 p.m. on May 21, 1997, unless sooner terminated by the Captain of the Port.

(c) *Captain of the Port* means the Commanding Officer of Coast Guard Activities Baltimore, or any commissioned, warrant, or petty officer authorized by the Captain of the Port to act on his behalf.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23

of this part, entry into this zone is prohibited except as authorized by the Captain of the Port.

(2) The Captain of the Port will notify the public of changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band radio Channel 22 (157.1 MHz).

Dated: April 7, 1997.

G.S. Cope,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 97–13196 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–5826–4]

Utah: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Utah has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Utah's application and has reached a decision that Utah's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Utah to operate its expanded program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for Utah shall be effective at 1:00 p.m. on July 21, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Kris Shurr (8P2–SA), State Assistance Program, 999 18th Street, Ste 500, Denver, Colorado 80202–2466, Phone: 303/312–6139.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260 through 268, 270, and 279. These regulatory changes are grouped into clusters.

B. Utah

Utah initially received final authorization in October 1984. Utah received authorization for revisions to its program on March 7, 1989, July 22, 1991, July 14, 1992, April 13, 1993, and December 13, 1994. On March 20, 1995, Utah submitted a final program revision application for additional program approvals. In addition, on April 14, 1995, Utah submitted a final program revision application for the provisions promulgated in the **Federal Register** at 59 FR 47982, September 19, 1994. Utah has been approved for all prerequisite Land Disposal Restriction rules through the Third Third (55 FR 22520, June 1, 1990). Today, Utah is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3). Specific provisions which are included in the Utah program authorization revision sought today are listed in the Table below.

EPA has reviewed both of Utah's applications and has made an immediate final decision that Utah's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Utah. The public may submit written comments on EPA's immediate final decision up until June 19, 1997. Copies of Utah's application for program revision are available for inspection and copying at the locations indicated in the "Addresses" section of this document.

Approval of Utah's program revision shall become effective in 60 days unless a comment opposing the authorization revision discussed in this document is received by the end of the comment period. If an adverse comment is received, EPA will publish either: (1) A withdrawal of the immediate final decision; or (2) a document containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

TABLE

HSWA or FR reference	State equivalent[1]
Toxicity Characteristic: Hydrocarbon Recovery Operations, 55 *FR* 40834, 10/05/90; 56 *FR* 3978, 02/01/91; and 56 *FR* 13406, 04/02/91.	R315–2–4.
Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038), 55 *FR* 46354, 11/02/90; and 55 *FR* 51707, 12/17/90.	R315–2–10, R315–50–9.
Wood Preserving Listings, 55 *FR* 50450, 12/06/90	R315–1–1, R315–2–4, R315–2–10, R315–50–8, R315–50–9, R315–50–10, R315–8–10, R315–8–19, R315–7–17, R315–7–28, R315–3–6.12.
Toxicity Characteristic: Chlorofluorocarbon Refrigerants, 56 *FR* 5910, 02/13/91.	R315–2–4.
Burning of Hazardous Waste In Boilers and Industrial Furnaces, 56 *FR* 7134, 02/21/91.	R315–1–1, R315–1–2, R315–2–2, R315–2–4, R315–2–6, R315–8–7, R315–8–15.1, R315–7–14, R315–7–22.1, R315–14–3, R315–14–7, R315–3–6.11, R315–3–15, R315–50–16, R315–3–37, R315–3–31, R315–3–32.
Administrative Stay for K069 Listing, 56 *FR* 19951, 05/01/91	R315–2–10.
Revision to the Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038), 56 *FR* 21955, 05/13/91.	R315–2–10.
Mining Waste Exclusion III, 56 *FR* 27300, 06/13/91	R315–2–4.
Wood Preserving Listings, 56 *FR* 27332, 06/13/91	R315–2–10, R315–8–19, R315–7–28.
Wood Preserving Listings; Technical Corrections, 56 *FR* 30192, 07/01/91.	R315–2–4, R315–2–24, R315–5–10, R315–8–19, R315–7–28, R315–3–6.12.

TABLE—Continued

HSWA or FR reference	State equivalent [1]
Burning of Hazardous Waste In Boilers and Industrial Furnaces; Corrections and Technical Amendments I, 56 *FR* 32688, 07/17/91.	R315–2–3, R315–2–6, R315–7–23.1, R315–14–7, R315–3–6.11, R315–3–15, R315–50–16, R315–3–37, R315–3–32.
Land Disposal Restrictions for Electric Arc Furnace Dust (K061), 56 *FR* 41164, 08/19/91.	R315–2–3, R315–2–4, R315–13–1.
Burning of Hazardous Waste In Boilers and Industrial Furnaces; Technical Amendments II, 55 *FR* 42504, 08/27/91.	R315–2–2, R315–7–14, R315–14–7.
Exports of Hazardous Waste; Technical Correction, 56 *FR* 43704, 09/04/91.	R315–5–13.
Burning of Hazardous Waste In Boilers and Industrial Furnaces; Administrative Stay of Applicability and Technical Amendment, 56 *FR* 43874, 09/05/91.	R315–14–7.
Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations, 56 *FR* 66365, 12/23/91.	R315–1–1, R315–7–13.2.
Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units, 57 *FR* 5859, 02/18/92.	R315–1–1, R315–8–2.6, R315–8–2.10, R315–8–5.3, R315–8–11.2, R315–8–11.9, R315–8–11.10, R315–8–11.3, R315–8–11.5, R315–8–12.2, R315–8–12.8, R315–8–12.9, R315–8–12.3, R315–8–14.2, R315–8–14.12, R315–8–14.3, R315–8–14.13, R315–8–14.5, R315–7–9.6, R315–7–9.10, R315–7–12.4, R315–7–18.9, R315–7–18.2, R315–7–18.10, R315–7–18.5, R315–7–18.6, R315–7–19.9 thru 19.12, R315–7–21.2, R315–7–21.10 thru 21.12, R315–7–21.4, R315–3–13, R315–3–6.3, R315–3–6.4, R312–3,-6.7, R315–50–16.
Administrative Stay for the Requirement that Existing Drip Pads be Impermeable, 57 *FR* 5859, 02/18/92.	R315–8–19, R315–7–28.
Second Correction to the Third Third Land Disposal Restrictions, 57 *FR* 8086, 03/06/92.	R315–8–2.4, R315–13–1.
Hazardous Debris Case-by-Case Capacity Variance, 57 *FR* 20766, 05/15/92.	R315–13–1.
Recycled Coke By-Product Exclusion, 57 *FR* 27880, 06/22/92	R315–2–4, R315–14–7.
Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance, 57 *FR* 28628, 06/26/92.	R315–13–1.
Universal Treatment Standards, 59 *FR* 47982, 09/19/94	R315–2–2(e)(1)(iii), R315–2–18–21, R315–7–8.1(c)(7), R315–8–1(e)(7), R315–13.1, R315–14–2, R315–14–7.

[1] References are to the Utah Administrative Code revised 11/15/94.

Indian Reservations

The program revision does not extend to "Indian Country" as defined in 18 U.S.C. Section 1151, including lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Utah:

1. Goshute Indian Reservation
2. Navajo Indian Reservation
3. Northwestern Band of Shoshone Nation of Utah (Washakie) Indian Reservation
4. Paiute Indian Tribe of Utah Indian Reservation
5. Skull Valley Band of Goshute Indians of Utah Indian Reservation
6. Uintah and Ouray Indian Reservation
7. Ute Mountain Indian Reservation

The Agency is cognizant that the State of Utah and the United States Government differ as to the exact geographical extent of Indian Country within the Uintah and Ouray Indian Reservation and are currently litigating this question in Federal Court. Until that litigation is completed and this question is resolved, the Agency will enter into discussions with the Ute Indian Tribe of the Uintah and Ouray Indian Reservation and the State of Utah to determine the best interim approach to managing this program in the disputed area. The Agency will notify the public of the outcome of these discussions.

In excluding Indian Country from the scope of this program revision, EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over sources in Indian Country. Should the State of Utah choose to seek program authorization within Indian Country, it may do so without prejudice. Before EPA would approve the State's program for any portion of Indian Country, EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval and that such approval would constitute sound administrative practice.

There are no EPA-issued permits in Indian Country at this time. EPA currently has approved closure activities at the Hercules-Tekoi Facility.

C. Decision

I conclude that Utah's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Utah is granted final authorization to operate its hazardous waste program as revised. Utah now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Utah also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already

subject to the regulatory requirements under existing State law which are being authorized by EPA. EPA's authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, 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. The section 202 and 205 requirements do not apply to today's action because it is not a "Federal mandate" and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because the requirements of the Utah program are already imposed by the State and subject to State law. Second, the Act also generally excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program. Utah's participation in an authorized hazardous waste program is voluntary.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Utah program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under existing state law which are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Authority: This document is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 5, 1997.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 97–13205 Filed 5–19–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7665]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Executive Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Executive Associate Director finds that the delayed effective dates would be contrary to the public interest. The Executive Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Louisiana: Bonita, village of, Morehouse Parish	220316	April 3, 1997	August 22, 1975.
South Dakota:			
Marion, city of, Turner County	460197	April 1, 1997	
Miner County, unincorporated areas	461213	April 3, 1997	
Oldham, city of, Kingsbury County	460129	do	
Eagle Butte, city of, Dewey County	460170	do	November 8, 1977.
Wyoming: Big Horn County, unincorporated areas	560004	April 4, 1997	August 2, 1977.
North Dakota: Streeter, city of, Stutsman County	380127	April 10, 1997	
Montana:			
Rosebud County, unincorporated areas	300069	April 9, 1997	September 26, 1978.
Madison County, unincorporated areas	300043	do	
Forsyth, city of, Rosebud County	300070	do	January 16, 1976.
Columbus, town of, Stillwater County	300109	do	
Toole County, unincorporated areas	300169	do	
Liberty County, unincorporated areas	300156	do	
Kentucky: Oak Grove, city of, Christian County	210375	do	
Missouri: Dudley, city of, Stoddard County	290615	April 10, 1997	
South Dakota:			
Winner, city of, Tripp County	460303	April 18, 1997	
Avon, city of, Bon Homme County	460154	do	
Kentucky: Robertson County, unincorporated areas	210200	April 15, 1997	March 25, 1977.
Tennessee: Mount Carmel, town of, Hawkins County.	470311	April 17, 1997	
Illinois: New Canton, village of, Pike County	170555	April 24, 1997	September 26, 1975.
Washington: Hoh Indian Tribe, Jefferson County	530329	April 25, 1997	
New Eligibles—Regular Program			
Kentucky: Marshall County, unincorporated areas	210252	April 1, 1997	August 19, 1991.
South Carolina: Travelers Rest, city of, Greenville County[1].	450264	April 3, 1997	January 16, 1992.
Texas:Progreso, city of, Hidalgo County[2]	481677	do	November 16, 1982.
Georgia: Woolsey, town of, Fayette County	130539	April 10, 1997	March 18, 1996.
Washington:Edgewood, city of, Pierce County[3]	530328	April 9, 1997	August 4, 1988.
California: Gridley, city of, Butte County	060019	April 18, 1997	NSFHA.
North Dakota:			
Streeter, city of, Stutsman County	380127	April 25, 1997	NSFHA.
Wilton, city of, McLean & Burleigh Counties	380065	do	NSFHA.
Gilby, city of, Grand Forks County	380035	do	NSFHA.
Abercrombie, city of, Richland County	380151	do	NSFHA.
Strasburg, city of, Emmons County	380252	do	NSFHA.
Wimbledon, city of, Barnes County	380212	do	NSFHA.
Hampden, city of, Ramsey County	380094	do	NSFHA.
South Dakota:			
Canistota, city of, McCook County	460162	do	NSFHA.
Worthing, town of, Lincoln County	460151	do	NSFHA.
De Smet, city of, Kingsburg County	460168	do	NSFHA.
Elkton, city of, Brookings County	460172	do	NSFHA.
Tyndall, city of, Bon Homme County	460220	do	NSFHA.

State/location	Community No.	Effective date of eligibility	Current effective map date
Canova, town of, Miner County	460102	.....do	NSFHA.
Tripp County, unincorporated areas	460289	.....do	NSFHA.
Tabor, town of, Bonne Homme County	460142	.....do	NSFHA.
Presho, city of, Lyman County	460297	.....do	NSFHA.
Hosmer, city of, Edmunds County	460117	.....do	NSFHA.
Langford, town of, Marshall County	460125	.....do	NSFHA.
Tea, city of, Lincoln County	460143	.....do	NSFHA.
Hartford, city of, Minnehaha County.	460180	.....do	NSFHA.
Webster, city of, Day County.	460227	.....do	NSFHA.
Waubay, city of, Day County.	460226	.....do	NSFHA.
Corsica, city of, Douglas County.	460167	.....do	NSFHA.
Bristol, city of, Day County.	460101	.....do	NSFHA.
Reinstatements			
Wyoming: Evanston, city of, Uinta County.	560054	March 23, 1977, Emerg; January 15, 1988, Reg; January 15, 1988, Susp; April 4, 1997, Rein.	January 15, 1988.
Kentucky: Sanders, city of, Carroll County.	210048	April 23, 1976, Emerg; September 27, 1985, Reg; September 15, 1993, Susp; April 4, 1997, Rein.	September 27, 1985
Idaho: Harrison, city of, Kootenai County	160080	March 3, 1976, Emerg; August 3, 1984, Reg; July 4, 1988, Susp; April 10, 1997, Rein.	August 3, 1984.
Illinois: Crescent City, village of, Iroquois County	170291	December 26, 1974, Emerg; September 1, 1987, Reg; September 1, 1987, Susp; April 15, 1997, Rein.	September 30, 1988
Pennsylvania: Upper Frederick, township of, Montgomery County.	421916	November 15, 1974, Emerg; August 17, 1981, Reg; February 19, 1997, Susp; April 18, 1997, Rein.	December 19, 1996.
Kentucky: Greenville, city of, Muhlenberg County	210176	May 30, 1975, Emerg; August 19, 1986, Reg; January 19, 1995, Susp; April 18, 1997, Rein.	August 19, 1986.
Kansas: Oberlin, city of, Decator County	200073	March 19, 1975, Emerg; January 17, 1985, Reg; June 5, 1989, Susp; April 25, 1997, Rein.	January 17, 1985.
Withdrawn			
Oklahoma: Allen, town of, Pontotoc County	400174	September 26, 1975, Emerg; November 30, 1982, Reg; April 10, 1997, With.	November 30, 1982.
Regular Program Conversions			
Region IV			
Georgia:			
Gray, city of, Jones County	130237	March 17, 1997, Suspension Withdrawn	March 17, 1997.
Hawkinsville, city of, Pulaski County	130155	.....do	Do.
Jones County, unincorporated areas	130434	.....do	Do.
Monroe County, unincorporated areas	130138	.....do	Do.
Pulaski County, unincorporated areas	130378	.....do	Do.
Worth County, unincorporated areas	130196	.....do	Do.
Mississippi: Pearl, city of, Rankin County.	280145	.....do	Do.
Region VI			
Oklahoma:			
Cleveland County, unincorporated areas	400475	.....do	Do.
Lexington, city of, Cleveland County	400043	.....do	Do.
Moore, city of, Cleveland County	400044	.....do	Do.
Noble, town of, Cleveland County	400045	.....do	Do.
Norman, city of, Cleveland County	400046	.....do	Do.
Oklahoma City, city of, Cleveland County	405378	.....do	Do.
Slaughterville, town of, Cleveland County	400539	.....do	Do.
Region VII			
Missouri: Marshall, city of, Saline County	290403	.....do	Do.
Region VIII			
Colorado:			
Calhan, town of, El Paso	080192	.....do	Do.
Ramah, town of, El Paso	080066	.....do	Do.
Region X			
Idaho:			
Bellevue, city of, Blaine County	160021	.....do	Do.
Blaine County, unincorporated areas	165167	.....do	Do.
Hailey, city of, Blaine County	160022	.....do	Do.
Ketchum, city of, Blaine County	160023	.....do	Do.
Sun Valley, city of, Blaine County	160024	.....do	Do.
Region II			
New York:			
Baxter Estates, village of, Nassau County	360459	April 2, 1997, Suspension Withdrawn.	April 2, 1997.
Bayville, village of, Nassau County	360988	.....do	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Cedarhurst, village of, Nassau County	360460	.....do	Do.
Centre Island, village of, Nassau County	360461	.....do	Do
Cove Neck, village of, Nassau County	360462	.....do	Do.
East Rockaway, village of, Nassau County	360463	.....do	Do.
Freeport, village of, Nassau County	360464	.....do	Do.
Glen Cove, city of, Nassau County	360465	.....do	Do.
Great Neck, village of, Nassau County	361519	.....do	Do.
Great Neck Estates, village of, Nassau County	360466	.....do	Do.
Hempstead, town of, Nassau County	360467	.....do	Do.
Hewlett Bay Park, village of, Nassau County	360468	.....do	Do.
Hewlett Harbor, village of, Nassau County	360469	.....do	Do.
Hewlett Neck, village of, Nassau County	360470	.....do	Do.
Island Park, village of, Nassau County	360471	.....do	Do.
Kensington, village of, Nassau County	360472	.....do	Do.
Kings Point, village of, Nassau County	360473	.....do	Do.
Lattingtown, village of, Nassau County	360474	.....do	Do.
Laurel Hollow, village of, Nassau County	360475	.....do	Do.
Lawrence, village of, Nassau County	360476	.....do	Do.
Long Beach, city of, Nassau County	365338	.....do	Do.
Manorhaven, village of, Nassau County	360479	.....do	Do.
Massapequa Park, village of, Nassau County	360480	.....do	Do.
Mill Neck, village of, Nassau County	360481	.....do	Do.
North Hempstead, village of, Nassau County	360482	.....do	Do.
Oyster Bay, village of, Nassau County	360483	.....do	Do.
Oyster Bay Cove, village of, Nassau County	361486	.....do	Do.
Plandome, village of, Nassau County	360484	.....do	Do.
Plandome Heights, village of, Nassau County	360485	.....do	Do.
Plandome Manor, village of, Nassau County	360486	.....do	Do.
Port Washington North, village of, Nassau County.	361562	.....do	Do.
Rockville Centre, village of, Nassau County	360488	.....do	Do.
Roslyn, village of, Nassau County	360489	.....do	Do.
Roslyn Harbor, village of, Nassau County	361035	.....do	Do.
Russell Gardens, village of, Nassau County	361583	.....do	Do.
Saddle Rock, village of, Nassau County	360491	.....do	Do.
Sands Point, village of, Nassau County	360492	.....do	Do.
Sea Cliff, village of, Nassau County	360493	.....do	Do.
Thomaston, village of, Nassau County	360494	.....do	Do.
Valley Stream, village of, Nassau County	360495	.....do	Do.
Woodsburgh, village of, Nassau County	360496	.....do	Do.
Region VI			
Texas:			
Aubrey, town of, Denton County	480776	.....do	Do.
Bartonville, town of, Denton County	481501	.....do	Do.
Copper Canyon, town of, Denton County	481508	.....do	Do.
Corinth, town of, Denton County	481143	.....do	Do.
Cross Roads, town of, Denton County	481513	.....do	Do.
Denton, city of, Denton County	480194	.....do	Do.
Denton County, unincorporated areas.	480774	.....do	Do.
Double Oak, town of, Denton County	481516	.....do	Do.
Flower Mound, town of, Denton County	480777	.....do	Do.
Hickory Creek, town of, Denton County	481150	.....do	Do.
Highland Village, city of, Denton County	481105	.....do	Do.
Justin, city of, Denton County	480778	.....do	Do.
Lake Dallas, city of, Denton County	480780	.....do	Do.
Lewisville, city of, Denton County	480195	.....do	Do.
Little Elm, town of, Denton County	481152	.....do	Do.
Northlake, town of, Denton County	480782	.....do	Do.
Roanoke, city of, Denton County	480785	.....do	Do.
Shady Shores, town of, Denton County	481135	.....do	Do.
The Colony, city of, Denton County	481581	.....do	Do.
Trophy Club, town of, Denton County	481606	.....do	Do.
Westlake, town of, Denton County	480614	.....do	Do.
Region VIII			
Colorado: Westminster, city of, Jefferson and Adams Counties.	080008	.....do	Do.
Region II			
New York: Weedsport, village of, Cayuga County	360132	April 16, 1997, Suspension Withdrawn.	April 16, 1997.
Region V			
Illinois:			

State/location	Community No.	Effective date of eligibility	Current effective map date
Seneca, village of, Lasalle and Grundy Counties.	170407	.....do	Do.
Sun River Terrace, village of, Kankakee County	171015	.....do	Do.

[1] The City of Travelers Rest, South Carolina has adopted the Greenville County (450089) Flood Insurance Rate Map dated January 16, 1992 (panel 135).
[2] The City of Progreso, Texas has adopted the Hidalgo County (480334) Flood Insurance Rate Map dated November 16, 1982 (panel 0525).
[3] The City of Edgewood has adopted the Pierce County (530138) Flood Insurance Rate Map dated August 4, 1988.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; SFHA—Non Special Flood Hazard Area.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: May 12, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–13181 Filed 5–19–97; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 24

[GEN Docket No. 90–314; ET Docket No. 92–100; PP Docket No. 93–253; FCC 97–140]

Narrowband Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this *Report and Order*, the Commission clarifies that its power and antenna height rules apply to regional as well as other narrowband Personal Communications Services (narrowband PCS) licenses, declines to provide special relief for those affected by the Canadian Interim Sharing Arrangement, and establishes competitive bidding rules for awarding the remaining authorizations for narrowband PCS. These changes clarify current Commission rules and establish procedures for awarding and licensing narrowband PCS in the future.

EFFECTIVE DATE: July 21, 1997.

FOR FURTHER INFORMATION CONTACT: Alice Elder or Mark Bollinger at (202) 418–0660 (Wireless Telecommunications Bureau/Auctions Division) or David Furth or Rhonda Lien at (202) 418–0620 (Wireless Telecommunications Bureau/ Commercial Wireless Division).

SUPPLEMENTARY INFORMATION: This is a summary of the *Report and Order*, GEN Docket No. 90–314, ET Docket No. 92–100 and PP Docket 93–253, adopted April 17, 1997 and released April 23, 1997. The complete text of the *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Synopsis of the Report and Order

Background

1. In the *First Report and Order*, 58 FR 42681 (August 11, 1993), the Commission provided for operation of new narrowband Personal Communications Services (PCS) in the 900 MHz band. The Commission broadly defined PCS as mobile and fixed communications offerings that serve individuals and businesses, and can be integrated with a variety of competing networks. The Commission declined to adopt a restrictive definition of narrowband PCS in order to promote other potential narrowband services. The Commission also adopted a spectrum allocation and channelization plan, licensing rules, and technical standards for narrowband PCS. The Commission determined that PCS is subject to competitive bidding in the case of eligible parties with competing applications.

2. In the *Competitive Bidding Second Report and Order*, 59 FR 22980 (May 4, 1994), the Commission adopted general competitive bidding rules for auctionable services. In the *Competitive Bidding Third Report and Order*, 59 FR 26741 (May 24, 1994) the Commission established competitive bidding rules specifically for narrowband PCS. On reconsideration of that *Order*, the Commission revised certain auction processing rules, expanded special provisions for designated entities in future narrowband auctions, and sought comment on additional designated entity provisions for the upcoming narrowband PCS auction. Of the three MHz of 900 MHz spectrum allocated for narrowband PCS, two one-MHz blocks are currently divided into specific channels for immediate licensing. The remaining one MHz of narrowband PCS spectrum currently is reserved to accommodate future development of narrowband PCS.

3. Thus far the Commission has conducted two auctions for narrowband PCS licenses. As a result of these two auctions, ten nationwide narrowband PCS licenses and six regional narrowband PCS licenses in five different regions, totalling 30 regional licenses, have been issued. Auctions have not yet been conducted for the narrowband PCS spectrum currently designated for licensing in 51 Major Trading Areas (MTAs) and 493 Basic Trading Areas (BTAs). In addition, the 204 MTA licenses and 1,968 BTA licenses designated as unpaired response channels also have not been auctioned.

Report and Order

A. Service Rules

1. Power and Antenna Height Limits

4. In the *PCS Memorandum Opinion & Order*, 59 FR 14115 (March 25, 1994), the Commission created regional service areas for narrowband PCS. Section 24.132 of its rules, which govern power and antenna height limits, currently applies to MTA and BTA service areas and does not mention regional service areas. *See* 47 CFR 24.132.

5. The Commission clarifies that § 24.132 of its rules applies to the regional service areas as well as MTA service areas. The Commission amends paragraphs (d) and (e) of § 24.132 to reflect that these rules apply to regional areas. *See* 47 CFR 24.132. Regional base stations, in addition to MTA base stations, must operate at reduced heights and power limits near service area borders in order to protect adjacent licensees from interference. In addition, the Commission clarifies that a narrowband PCS licensee holding a license for the same channel in an adjacent region or MTA is not required to reduce height and power to protect itself.

2. Canadian Interim Sharing Arrangement

6. On September 22, 1994, the United States and Canada entered into an interim sharing arrangement with respect to use of narrowband PCS channels in border areas. Under the *Canadian Interim Sharing Arrangement* (Sharing Arrangement), MTA and BTA licensees on certain narrowband PCS channels are not permitted to locate base stations within 75 miles of the U.S./Canadian border. These licensees are further prohibited from operating mobile stations in a manner that causes interference to the primary Canadian channels. Because the *Sharing Arrangement* was not yet finalized before the regional narrowband PCS auction bidder package was released, on August 22, 1994, the *Sharing Arrangement* was not included in the bidder package. However, by *Public Notice*, the Commission announced the *Sharing Arrangement* five days prior to the commencement of the regional narrowband PCS auction on October 26, 1994. Additionally, a *Public Notice* released December 21, 1994 invited comment on the effect of the *Sharing Agreement* on narrowband PCS licensing.

7. The Commission concludes that special relief for parties affected by the Sharing Arrangement is not necessary. Over the next year the Commission will negotiate vigorously with Canada for full coordination and accommodation of narrowband PCS license winners. Moreover, parties were fully aware of the Sharing Arrangement at the time of the regional auction, given that a Public Notice concerning the Sharing Arrangement was released before the regional narrowband auction commenced. The Commission believes that the operating restrictions resulting from the Sharing Arrangement are matters that should have been considered by potential bidders in their valuation of the licenses for competitive bidding purposes.

B. Auction Rules

1. Establishment of Entrepreneurs' Block

8. In authorizing the Commission to use competitive bidding under § 309(j) of the Act, Congress mandated that the Commission "ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in spectrum based services." Congress also mandated that the Commission utilize competitive bidding to promote economic opportunity and competition and ensure that the new and innovative technologies are readily accessible to the American people. When deciding which provisions to adopt to encourage designated entity participation in particular services, the Commission has closely examined the specific characteristics of the service and has adopted a mix of provisions designed to balance the objectives of Congress set forth in § 309(j). Thus, the Commission has adopted measures designed to enhance the ability of designated entities to acquire licenses and to increase competition in the provision of wireless services generally. In narrowband PCS, for instance, the Commission has provided installment payments for small businesses and bidding credits for minority-owned and women-owned businesses. In broadband PCS, the Commission designated certain spectrum blocks for entrepreneurs' block licenses and provided bidding credits and installment plans for certain designated entities. In the 900 MHz Specialized Mobile Radio (SMR) service, the Commission provided bidding credits, installment payments, and reduced down payments for small businesses. Most recently, the Commission adopted bidding credits and installment payments for the paging services.

9. In the *Competitive Bidding Third Memorandum Opinion & Order/Further NPRM*, 59 FR 44058 (August 26, 1994), the Commission proposed service-specific modifications to its competitive bidding rules for the award of narrowband PCS licenses with MTA and BTA service areas. In an effort to facilitate designated entity participation in providing narrowband PCS, the Commission proposed to reserve both BTA frequency blocks and up to four MTA frequency blocks for bidding exclusively by entities with annual gross revenues of no more than $125 million in the preceding two years and total assets of no more than $500 million (entrepreneurs' blocks). The entrepreneurs' block proposal would have added channels 21 and 25 to the channels allocated for MTA and BTA licenses for which designated entity provisions applied. The Commission later sought additional comment on proposals for establishing narrowband PCS entrepreneurs' blocks in light of: (1) the results of the regional narrowband PCS auction; and (2) the Commission's reconsideration of its broadband PCS entrepreneurs' block rules in the *Competitive Bidding Fifth Memorandum Opinion and Order*, 59 FR 63210 (December 7, 1994).

10. Upon review of the record, the Commission will not establish an entrepreneurs' block for narrowband PCS similar to its provisions in broadband PCS. The Commission agrees with those commenters who state that the results of the narrowband regional auction demonstrate that bidding credits and installment payments alone can facilitate participation by designated entities in the competitive process as well as securing licenses for the provision of narrowband PCS. Additionally, the Commission has the experience of other auctions, such as 900 MHz Specialized Mobile Radio, where it did not have an entrepreneurs' block but, nonetheless, had many successful designated entity applicants.

11. Also, the Commission considers narrowband PCS to be less capital intensive than broadband PCS, thereby making it more likely that small businesses, for example, can acquire the financing to win these licenses, particularly for MTAs. Thus, the Commission concludes there is no need to insulate designated entities from other bidders and that bidding credits coupled with installment payments should satisfy its obligations under § 309(j) of the Communications Act as they have in so many other auctions. The Commission also points out that its partitioning proposal could provide for designated entities to acquire narrowband PCS licenses post-auction. Moreover, narrowband PCS licensees are free to transfer and assign licenses immediately (unlike broadband PCS), providing further flexibility to acquire licenses post-auction.

2. Definition of Minority Groups

12. The Commission will continue to request bidder information on the FCC Form 175 as to minority- and/or women-owned status, in addition to small business status, in order to monitor whether it has accomplished substantial participation by minorities and women through the broad provisions available to small businesses. Currently, the narrowband PCS rules define "members of minority groups" as "individuals of African-American, Hispanic-surnamed, American Eskimo, Aleut, American Indian and Asian American extraction." In response to numerous inquiries, the Commission revised this definition in its broadband PCS rules to conform with the definition used in other contexts. Thus, § 24.720(i) of the Commission's rules for broadband PCS now defines members of minority groups to include "Blacks, Hispanics, American Indians, Alaskan Natives, Asians, and Pacific Islanders."

13. In the *Competitive Bidding Fifth Memorandum Opinion and Order*, 59 FR 63210 (December 7, 1994), the

Commission noted that it would make the same definitional correction made in the broadband PCS context to the definition of minority groups used in the narrowband PCS auction rules. The Commission also recently amended its general competitive bidding definition of minority, § 1.2110(b)(2), to adopt this definition of minority. Thus, in an effort to maintain consistency throughout its auction rules for various services, the Commission revises the definition of "members of minority groups" in its narrowband PCS auction rules to include "Blacks, Hispanics, American Indians, Alaskan Native, Asians, and Pacific Islanders." *See* 47 CFR § 24.720(i).

C. Conclusion

The Commission believes that the rules set forth for narrowband PCS in this *Report and Order* will promote the public policy goals set forth by Congress.

D. Procedural Matters

A. Ex Parte Rules—Non-Restricted Proceeding

15. This is a non-restricted rule making proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.1203, and 1.1206(a).

B. Regulatory Flexibility Act Analysis

16. As required by the Regulatory Flexibility Act, *see* 5 U.S.C. § 604, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) of the expected impact on small entities of the policies and rules proposed and adopted in the *Report and Order* section of this *Report and Order and Further NPRM (Report and Order)*. An Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Third Memorandum Opinion and Order and Further NPRM*, 59 FR 44058 (August 28, 1994) in this proceeding. Additionally, Final Regulatory Flexibility Analyses were incorporated in the *First Report and Order*, 58 FR 42681 (August 11, 1993), the *Third Report and Order*, 59 FR 26741 (May 24, 1994), the *Third Memorandum Opinion and Order and Further NPRM*, 59 FR 44058 (August 26, 1994) and the *Second Memorandum Opinion and Order*, 59 FR 46195 (September 7, 1994) in this proceeding. Written comments to the proposals, including the Initial Regulatory Flexibility Analysis, were requested. As noted in these previous final analyses, this proceeding will establish a system of competitive bidding for choosing among certain applications for initial licenses, and will carry out statutory mandates that certain designated entities, including small entities, be afforded an opportunity to participate in the competitive bidding process and in the provision of spectrum-based services.

A. Need for and Objective of Rules

17. This *Report and Order* was initiated to adopt rules and secure comment on proposals for revising rules for narrowband Personal Communications Services (PCS). Such changes to the rules for the narrowband PCS service would promote efficient licensing and enhance the service's competitive potential in the Commercial Mobile Radio Service marketplace. The adopted rules are based on the competitive bidding authority of § 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(j), which authorizes the Commission to use auctions to select among mutually exclusive initial applications in certain services, including narrowband PCS. The Omnibus Budget Reconciliation Act of 1993 (Budget Act), Public Law 103–66, Title VI, § 6002, and the subsequent Commission actions to implement it are intended to establish a system of competitive bidding for choosing among certain applications for initial licenses, and carry out statutory mandates that certain designated entities, including small businesses, are afforded an opportunity to participate in the competitive bidding process and in the provision of narrowband PCS services.

B. Issues Raised by the Public in Response to the Initial Analysis

18. No party suggested modifications specifically to the Initial Regulatory Flexibility Analysis. The following issues will apply to small businesses.

1. Power and Antenna Height Limits

19. The Commission clarifies that § 24.132 of its rules applies to the regional service areas as well as Major Trading Area (MTA) service areas. The Commission amends paragraphs (d) and (e) of § 24.132 of its rules, 47 CFR 24.132, to reflect that these rules apply to regional areas. Regional base stations, in addition to MTA base stations, must operate at reduced heights and power limits near service area borders in order to protect adjacent licensees from interference. In addition, the Commission clarifies that a narrowband PCS licensee holding a license for the same channel in an adjacent region or MTA is not required to reduce height and power to protect itself.

20. *Auction Rules.* Based upon the comments and record before it, the Commission determines that it will not establish an entrepreneurs' block for narrowband PCS similar to its provisions in broadband PCS. The Commission agrees with those commenters who argue that the results of the previously-held narrowband regional auction demonstrate that bidding credits and installment payments can facilitate participation by designated entities in the competitive process, as well as securing licenses for the provision of narrowband PCS. Additionally, the Commission has the experience of other auctions, such as 900 MHz Specialized Mobile Radio, which did not have an entrepreneurs' block but, nonetheless, had many successful designated entity applicants. Also, the Commission considers narrowband PCS to be less capital intensive than broadband PCS, thereby making it more likely that small businesses, for example, can acquire the financing to win these licenses, particularly for MTAs. Thus, the Commission concludes there is no need to insulate designated entities from other bidders and that bidding credits coupled with installment payments should satisfy its obligations under § 309(j) of the Communications Act as they have in so many other auctions.

21. *Definition of Minority Groups.* In the *Competitive Bidding Fifth Memorandum Opinion and Order*, the Commission noted that it would make the same definitional correction made in the broadband PCS context to the definition of minority groups used in the narrowband PCS auction rules. Thus, in an effort to maintain consistency throughout its auction rules for various services, the Commission revises its definition of "members of minority groups" in its narrowband PCS auction rules to include "Blacks, Hispanics, American Indians, Alaskan Native, Asians, and Pacific Islanders."

C. Description and Number of Small Entities Involved

22. The rules adopted in this *Report and Order* apply to current narrowband PCS operators and new entrants into the narrowband PCS market. Under these rules, mutually exclusive applications for narrowband PCS licenses will be resolved through competitive bidding procedures.

23. The Commission does not know how many narrowband PCS licenses will be granted or auctioned, as it has not yet determined the size or number of such licenses. Two auctions of narrowband PCS licenses have been conducted for a total of 41 licenses, out

of which 11 were obtained by small businesses owned by members of minority groups and/or women. Small businesses were defined as those with averaged gross revenues for the prior three fiscal years of $40 million or less. For purposes of this Final Regulatory Flexibility Analysis, the Commission is utilizing the Small Business Administration (SBA) definition applicable to radiotelephone companies, *i.e.*, an entity employing less than 1,500 persons. Not all of the narrowband PCS licenses have yet been awarded. There is therefore no basis to determine the number of licenses that will be awarded to small entities in future auctions. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of prospective narrowband PCS licensees can be made, the Commission assumes, for purposes of the evaluations and conclusions in this Final Regulatory Flexibility Analysis, that all the remaining narrowband PCS licenses will be awarded to small entities.

D. Summary of Projected Reporting, Recordkeeping and Other Compliance Requirements

24. Narrowband PCS licensees may be required to report information concerning the location of their transmission sites under some circumstances, although generally they will not be required to file applications on a site-by-site basis. Additionally, narrowband PCS license applicants will be subject to reporting and recordkeeping requirements to comply with the competitive bidding rules. Specifically, applicants will apply for narrowband PCS licenses by filing a short-form application (FCC Form 175), and will file a long-form application (FCC Form 600) at the conclusion of the auction. Additionally, entities seeking treatment as small businesses will need to submit information pertaining to the gross revenues of the small business applicant and its affiliates and certain investors in the applicant. Such entities will also need to maintain supporting documentation at their principal place of business.

E. Steps Taken To Minimize Burdens on Small Entities

25. Section 309(j)(3)(B) of the Communications Act, 47 CFR 309(j)(3)(B), provides that in establishing eligibility criteria and bidding methodologies the Commission shall, *inter alia*, promote economic opportunity and competition and ensure that new and innovative technologies are readily accessible by avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women. Section 309(j)(4)(A) provides that in order to promote such objectives, the Commission shall consider alternative payment schedules and methods of calculation, including lump sums or guaranteed installment payments, with or without royalty payments, or other schedules or methods. Therefore, the Commission finds that it is appropriate to establish special provisions in the narrowband PCS rules for competitive bidding by small businesses. The Commission believes that small businesses applying for narrowband PCS licenses should be entitled to some type of bidding credits and should be permitted to pay their bids in installments. In awarding narrowband PCS licenses, the Commission is committed to meeting the statutory objectives of promoting economic opportunity and competition, of avoiding excessive concentration of licenses, and of ensuring access to new and innovative technologies by disseminating licenses among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.

26. In determining small business status, the Commission will consider the gross revenues of the small business applicant, its affiliates, and certain investors in the applicant. The Commission will attribute the gross revenues of all controlling principals in the small business applicant as well as the gross revenues of affiliates of the applicant. The Commission will require that in order for an applicant to qualify as a small business, qualifying small business principals must maintain control of the applicant.

F. Significant Alternatives Considered and Rejected

27. The Commission considered and rejected a proposal to give additional relief to narrowband PCS licensees affected by an interim sharing arrangement with respect to use of narrowband PCS channels in border areas between the United States and Canada. The Commission determined that such special relief is not necessary, as potential bidders to this spectrum had adequate notice of such interim arrangement and the interim arrangement also provides licensees with adequate spectrum protection.

28. The Commission also considered and rejected a proposal to establish an entrepreneur's block for narrowband PCS similar to the Commission's provisions for such a block of spectrum in broadband PCS. The Commission agrees with those commenters who argue that the results of the previously-conducted narrowband regional auction demonstrate that bidding credits and installment payments can facilitate participation by designated entities in the competitive process as well as securing licenses for the provision of narrowband PCS. Additionally, the Commission has the experience of other auctions, such as 900 MHz Specialized Mobile Radio, where no entrepreneurs' block existed but, nonetheless, many successful designated entity applicants existed. The Commission also considers narrowband PCS to be less capital intensive than broadband PCS, thereby making it more likely that small businesses, for example, can acquire the financing to win these licenses, particularly for MTAs. Thus, the Commission concludes there is no need to insulate designated entities from other bidders and that bidding credits coupled with installment payments should satisfy its obligations under § 309(j) of the Communications Act as they have in so many other auctions. Moreover, narrowband PCS licensees are free to transfer and assign licenses immediately (unlike broadband PCS), providing further flexibility to acquire licenses post-auction.

29. The Commission also considered and rejected a proposal to maintain its definition of minority groups eligible for special provisions in the narrowband PCS auction. The Commission instead decided to modify its definition in order to bring it into conformity with the Commission's definition for broadband PCS, namely, "Blacks, Hispanics, American Indians, Alaskan Natives, Asians, and Pacific Islanders."

G. Report to Congress

30. The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this *Report and Order/Further NPRM*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this Final Regulatory Flexibility Analysis will also be published in the **Federal Register**.

C. Ordering Clauses

31. Accordingly, it is ordered that Part 24 of the Commission's Rules is amended as specified below, effective July 21, 1997.

32. It is further ordered that the Petition for Reconsideration of the

Second Memorandum Opinion and Order in GN Docket 90–314 and ET Docket 92–100 filed by the Puerto Rico Telephone Company is dismissed.

33. Authority for issuance of this *Report and Order* is contained in §§ 4(i), 303(r) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r) and 309(j).

List of Subjects in 47 CFR Part 24

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission

William F. Caton,

Acting Secretary.

Rule Changes

Part 24 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 24—PERSONAL COMMUNICATIONS SERVICES

1. The authority citation for part 24 continues to read as follows:

Authority: Secs. 4, 301, 302, 303, 309, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 301, 302, 303, 309 and 332, unless otherwise noted.

2. Section 24.132 is amended by revising paragraphs (d) and (e) to read as follows:

§ 24.132 Power and antenna height limits.

* * * * *

(d)(1) MTA and regional base stations located between 200 kilometers (124 miles) and 80 kilometers (50 miles) from their licensed service area border are limited to the power levels in the following table:

Antenna HAAT in meters (feet) (see § 24.53 for HAAT HAAT calculation method)	Effective radiated power (e.r.p.) (watts)
183 (600) and below	3500
183 (600) to 208 (682)	3500 to 2584
208 (682) to 236 (775)	2584 to 1883
236 (775) to 268 (880)	1883 to 1372
268 (880) to 305 (1000)	1372 to 1000
305 (1000) to 346 (1137) ..	1000 to 729
346 (1137) to 394 (1292) ..	729 to 531
394 (1292) to 447 (1468) ..	531 to 387
447 (1468) to 508 (1668) ..	387 to 282
508 (1668) to 578 (1895) ..	282 to 206
578 (1895) to 656 (2154) ..	206 to 150
656 (2154) to 746 (2447) ..	150 to 109
746 (2447) to 848 (2781) ..	109 to 80
848 (2781) to 963 (3160) ..	80 to 58
963 (3160) to 1094 (3590)	58 to 42
1094 (3590) to 1244 (4080)	42 to 31
1244 (4080) to 1413 (4636)	31 to 22
Above 1413 (4636)	16

(2) For heights between the values listed in the table, linear interpolation shall be used to determine maximum e.r.p.

(e) MTA, BTA and regional base stations located less than 80 kilometers (50 miles) from the licensed service area border must limit their effective radiated power in accordance with the following formula:

$PW = 0.0175 \times dkm^{**}6.6666 \times hm^{**} - 3.1997$

PW is effective radiated power in watts
dkm is distance in kilometers
hm is antenna HAAT in meters; see § 24.53 for HAAT calculation method

3. Section 24.320(e) is revised to read as follows:

§ 24.320 Definitions.

* * * * *

(e) *Members of Minority Groups.* Members of minority groups include Blacks, Hispanics, American Indians, Alaskan Natives, Asians and Pacific Islanders.

* * * * *

[FR Doc. 97–13148 Filed 5–20–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. 74–14; Notice 118]

RIN 2127–AG75

Anthropomorphic Test Dummy; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: This document adopts modifications to the Hybrid III test dummy, which is specified by the agency for use in compliance testing under Standard No. 208, *Occupant crash protection*. The agency has decided to require a six axis neck transducer, thereby allowing the test dummy to measure neck flexion, extension moments and tension, compression and shear forces. The agency has determined that immediate action is in the public interest since the agency needs to ensure compliance with the recent amendment to Standard No. 208 allowing air bag depowering. NHTSA is also requesting comments on whether the agency should make permanent its amendment to the Hybrid III dummy.

DATES: *Effective Date:* The amendments made by this interim final rule are effective May 20, 1997.

Incorporation by Reference Date: The incorporation by reference of the material listed in this document is approved by the Director of the Federal Register as of May 20, 1997.

Comments. Comments must be received on or before July 7, 1997.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Stanley Backaitis, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–4912. Fax: (202) 366–4329.

For legal issues: Mr. Marvin L. Shaw, NCC–20, Rulemaking Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC.

SUPPLEMENTARY INFORMATION:

I. Background

On March 19, 1997, NHTSA published a final rule that temporarily amends the agency's occupant crash protection standard to ensure that vehicle manufacturers can quickly depower all air bags so that they inflate less aggressively. (62 FR 12960) The agency took this action to provide an immediate, interim solution to the problem of the fatalities and injuries that current air bag designs are causing in relatively low speed crashes to small, but growing numbers of children, and occasionally to adult occupants.

As part of the final rule, NHTSA decided to adopt neck injury criteria. The agency stated that such criteria are necessary to ensure that a vehicle is equipped with air bags that have protective value. Absent these criteria, some vehicles could comply with the 125 ms pulse sled test without air bags. The agency further stated that neck compression loads, bending moments, and tension and shear forces can be significant sources of potential injuries in crashes. NHTSA concluded that the inclusion of neck injury criteria should aid in measuring air bag effectiveness and may ultimately improve crash protection.

In the final rule, NHTSA stated that the proposal (62 FR 807; January 6,

1997) which preceded the final rule had not made it clear how the neck injury measurements would be performed. The final rule clarified this matter by stating that the neck injury measurement is performed by the six-axis load cell mounted between the head and upper end of the neck, as specified in 49 CFR 572.33.

II. Today's Interim Final Rule

After additional review, NHTSA has determined that to ensure adequate evaluation of the neck injury criteria adopted in the depowering final rule, it is necessary to amend Subpart E of Part 572, *Anthropomorphic Test Devices*, to specify that the Hybrid III Test Dummy is to be equipped with a six axis neck transducer. The current specifications in Subpart E for the Hybrid III dummy do not include a six axis neck transducer, although a three axis neck transducer is allowed as an option. However, the three axis transducer does not provide information about the effects of off-axis loading that may occur in air bag impacts and crash tests involving the dummy's rotational kinematics. Accordingly, the agency has decided to amend section 572.31 *General Description*, 572.32 *Head*, and 572.33 *Neck*, 572.34 *Thorax*, and 572.36 *Test conditions and instrumentation*, to specify that the Part 572 E (Hybrid III) dummy is to be equipped with a six axis neck transducer.

NHTSA notes that use of the six axis transducer, which has been commercially available for almost ten years, is a well-established practice. The agency has extensively used this transducer during its New Car Assessment Program (NCAP) tests and for nearly all of its research and development tests. Further, the agency believes that all vehicle manufacturers have used the six axis transducer in research and development and air bag testing. Moreover, vehicle certification testing has frequently been performed with dummies that were equipped with the six axis neck transducer even though measurement of neck loads were not part of the requirement.

NHTSA notes that the six axis neck transducer with appropriate head modification is identical in mass, center of gravity location, and rigidity with the currently specified head that is equipped either with the neck transducer structural replacement or the optionally available three axis neck transducer.

Nevertheless, certain modifications to the Hybrid III dummy are necessary to accommodate the six axis neck transducer, which is designated as part C–1709 revision D. The six axis neck transducer is mounted between the Hybrid III dummy's head and the neck. As designed, the specified dummy's head is not capable of adopting the six axis neck transducer without modification of the skull structure. To accommodate mounting the six axis neck transducer, a 2.58 inch diameter hole must be machined through the transverse bulkhead of the skull (78051–77). First Technologies Safety Systems (FTSS) has designated the modified skull as part number 78051–77X (all currently used parts that are being modified to accommodate the six axis load cell will have the letter X assigned after the part number). To use the modified head without the six axis neck load cell, for tests such as the head drop, a neck transducer structural replacement (78051–383X) is needed. In either case, to attain the same accelerometer location as is presently specified, the current accelerometer mount (78051–222) must be reduced in height by 0.28 inch because the top surface of the six axis neck transducer or its structural replacement are higher by 0.28 in. than its current mounting base. Accordingly, the accelerometer mount is being revised from 78051–222 to 78051–222X to reflect these differences.

The addition of the six axis neck transducer involves changes not only to the head assembly drawing, but also requires revisions of the complete dummy assembly and a number of other drawings in which the dummy assembly is referenced, and includes the adoption of an updated Society of Automotive Engineers (SAE) Recommended Practice J211 MAR95 revision covering Instrumentation for Impact Test which reflect the channel frequency response class specifications of the six axis load cell.

To accommodate the six axis neck transducer, Part 572 E head assembly drawing 78051–61 is modified to 78051–61X and incorporates the modified skull (78051–77X), the six axis neck transducer (C–1709, revision D), the modified accelerometer mount (78051–222X), and for use in head drop tests only a six axis neck transducer structural replacement (78051–383X). It is also modified to delete the currently specified head (78051–77), the three axis neck transducer (83–5001–008) and its structural replacement (78051–383), and the accelerometer mount (78051–222X)as well as obsolete references to drawings related to test procedures and calibrations. This will include revisions of S572.31, 572.32, 572.33, 572.34, and 572.36 and of the assembly drawings of the head from 78051–61 to 78051–61X and the complete dummy from 78051–218 revision S to 78051–218 revision T.

These changes will result in the adoption of the updated SAE J211 Recommended Practice, *Instrumentation for Impact Tests* of March 95 in place of June 80 and the incorporation by reference of SAE J1733 Information Report of 1994–12 dealing with *Sign Convention for Vehicle Crash Testing*. The Recommended Practice J211 of March 1995 and the Information Report SAE J1733 update the crash instrumentation and data acquisition and processing procedures in line with those used currently by the industry. By incorporating SAE J211 MAR95, the channel classes of the neck forces and moments are being changed from Channel Frequency Class (CFC) 60 to CFC 1000 for neck forces and CFC 600 for neck moment respectively. The agency has examined the effects of the CFC change on the moment calculation and finds that it may in some instances raise the calculated value less than one percent. NHTSA believes that such changes in magnitudes are insignificant and they will not affect most manufacturers and testers, since they already have been using the Hybrid III dummy with the six axis neck transducer and processing the data at the higher CFC levels for air bag development, evaluation and certification activities.

Cost and Lead Time Issues

The list price of a six axis neck transducer is around $10,250. However, it appears that the required use of the six axis neck transducer will not impose significant financial hardships on any of the dummy users, since most manufacturers have been conducting at least some vehicle and occupant restraints systems development work and air bag certification tests using dummies equipped with such neck transducers. NHTSA understands that well over 500 six axis neck transducers have been procured by the users. Inasmuch as their use-life expectancy is nearly infinite, neither refurbishment nor replacement issues need to be considered.

NHTSA finds that the issuance of this interim final rule without prior opportunity for comment is necessary to permit the vehicle manufacturers to begin work immediately to depower their air bags using the recently adopted alternative sled test. One element of passing that test is complying with the neck injury criteria that were also recently adopted. The agency needs to adopt the six axis transducer specified in this notice to determine compliance with those criteria. The final rule

adopting the sled test and neck criteria emphasized that there was an immediate need to allow vehicle manufacturers to depower air bags, and thus begin saving lives, as soon as possible. Any delay would be inconsistent with the public's interest in allowing safer vehicles. The agency also finds for good cause that it is in the public interest to establish an immediate effective date for the amendments made by today's notice. In the absence of an immediate effective date, the agency would not be able to immediately evaluate compliance with the neck injury criteria. The agency notes that the sled test is an alternative way to comply with Standard No. 208 and therefore does not impose any new mandatory requirement.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "non-significant" under the Department of Transportation's regulatory policies and procedures. The amendments do not require any vehicle design changes. Instead, they only require minor modifications in the test dummies used to evaluate a vehicle's compliance with Standard No. 208. The agency believes that most, if not all, vehicle manufacturers currently use the six axis neck load transducer. Since there is little, if any, need to procure additional neck load transducers, the incremental cost of $10,250 per dummy, in the event additional units will be needed to meet the requirement, will still represent a negligibly small cost increment, because the transducers have nearly infinite service life. The agency concludes that the impacts of the amendments are so minimal that a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this rule does not have a significant economic impact on a substantial number of small entities. Under 5 U.S.C. § 605(b), NHTSA believes that modifications to dummy designs affect motor vehicle manufacturers and manufacturers of air bags, few of which are small entities. The agency notes that the Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR § 121.105(a)). The agency estimates that there are at most five small manufacturers of passenger cars in the U.S., producing a combined total of at most 500 cars each year. The agency does not believe small businesses manufacture even 0.1 percent of total U.S. passenger car and light truck production each year.

NHTSA notes that today's final rule will not impose any new requirements or costs on vehicle manufacturers, but instead will permit evaluation by manufacturers using the optional sled test to evaluate depowered air bags. Therefore, no vehicle manufacturer, regardless of its size, will be required to take any action as a result of the rule. Accordingly, the agency believes that the rule will have no significant impact on small vehicle manufacturers. Further, since no price increases are associated with the rule, small organizations and small governmental units will not be affected in their capacity as purchasers of new vehicles.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This rule has no retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Submission of Comments

Interested persons are invited to submit comments on the notice. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the notice will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 572

Incorporation by reference, Motor vehicle safety.

In consideration of the foregoing, 49 CFR Part 572 is amended as follows:

PART 572—[AMENDED]

1. The authority citation for Part 572 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Subpart E—Hybrid III Test Dummy

2. Section 572.30 is amended by revising paragraph (b) to read as follows:

§ 572.30 Incorporated materials.

* * * * *

(b) The materials incorporated by reference are available for examination in the general reference section of docket 74–14, Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Copies of Society of Automotive Engineers (SAE) publications may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096. Copies of all other publications may be obtained from Reprographic Technologies, 9000 Virginia Manor Road, Beltsville, MD 20705, Telephone (301) 210–5600, Facsimile (301) 419–5069, Attn. Mr. Jay Wall. Drawings and specifications are also on file in the reference library of the Office of the Federal Register, 800 N. Capitol Street, NW., suite 700, Washington, DC.

3. Section 572.31 is amended by revising paragraphs (a)(1) through (a)(5) and the introductory text of (b) to read as follows:

§ 572.31 General description.

(a) * * *

(1) The Anthropomorphic Test Dummy Parts List, April 22, 1986 with revisions through April 9, 1997.

(2) A listing of Hybrid III Dummy Transducers-reference document AGARD–AR–330, "Anthropomorphic Dummies for Crash and Escape System Testing", Chapter 6, Table 6–2, North Atlantic Treaty Organization, July, 1996.

(3) A General Motors Drawing No. 78051–218, revision T, titled "Hybrid III Anthropomorphic Test Dummy," dated May 20, 1978, the following component assemblies, and subordinate drawings:

Drawing No.	Revision
78051–61X head assembly—complete, (March 28, 1997)	(C)
78051–90 neck assembly—complete, dated May 20, 1978	(A)
78051–89 upper torso assembly—complete, dated May 20, 1978	(K)
78051–70 lower torso assembly—complete, dated August 20, 1996, except for drawing No. 78051–55, "Instrumentation Assembly—Pelvic Accelerometer," dated August 2, 1979.	(E)
86–5001–001 leg assembly—complete (LH), dated March 26, 1996	(A)
86–5001–002 leg assembly—complete (RH), dated March 26, 1996	(A)
78051–123 arm assembly—complete (LH), dated May 20, 1978	(D)
78051–124 arm assembly—complete (RH), dated May 20, 1978	(D)

(4) Disassembly, Inspection, Assembly and Limbs Adjustment Procedures for the Hybrid III dummy, dated April 1997.

(5) Sign Convention for signal outputs—reference document SAE J1733 Information Report, titled "Sign Convention for Vehicle Crash Testing", dated 1994–12.

* * * * *

(b) Any specifications and requirements set forth in this part supersede those contained in General Motors Drawing No. 78051–218.

* * * * *

4. Section 572.32 is amended by revising paragraphs (a) and (b) to read as follows:

§ 572.32 Head.

(a) The head consists of the assembly shown in drawing 78051–61X, revision C, and conforms to each of the drawings subtended therein.

(b) When the head (Drawing number 78051–61X, titled "head assembly—complete," dated March 28, 1997 (Revision C) with six axis neck transducer structural replacement (Drawing number 78051–383X, Revision P, titled "Neck Transducer Structural Replacement," dated November 1, 1995) is dropped from a height of 14.8 inches in accordance with paragraph (c) of this section, the peak resultant accelerations at the location of the accelerometers mounted in the head in accordance with § 572.36(c) shall not be less than 225g, and not more than 275g. The acceleration/time curve for the test shall be unimodal to the extent that oscillations occurring after the main acceleration pulse are less than ten percent (zero to peak) of the main pulse. The lateral acceleration vector shall not exceed 15g (zero to peak).

* * * * *

5. Section 572.33 is amended by revising paragraphs (a) and (b) and Figures 20 and 21 (which should be placed after paragraph (b)(2)(ii)) to read as follows:

§ 572.33 Neck.

(a) The neck consists of the assembly shown in drawing 78051–90, revision A and conforms to each of the drawings subtended therein.

(b) When the head and neck assembly (consisting of the parts 78051–61X, revision C; –90, revision A; –84; –94; –98; –104, revision F; –303, revision E; –305; –306; –307, revision X) which has a six axis neck transducer (Drawing number C–1709, Revision D, titled "Neck transducer," dated February 1, 1993.) installed in conformance with § 572.36(d), is tested in accordance with paragraph (c) of this section, it shall have the following characteristics:

(1) *Flexion.* (i) Plane D, referenced in Figure 20, shall rotate between 64 degrees and 78 degrees, which shall occur between 57 milliseconds (ms) and 64 ms from time zero. In first rebound, the rotation of Plane D shall cross 0 degrees between 113 ms and 128 ms.

(ii) The moment measured by the six axis neck transducer (drawing C–1709, revision D) about the occipital condyles, referenced in Figure 20, shall be calculated by the following formula: Moment (lbs-ft) = My − 0.058 × Fx, where My is the moment measured in lbs-ft by the "Y" axis moment sensor of the six axis neck transducer and Fx is the force measured in lbs by the "X" axis force sensor (Channel Class 600) of the six axis neck transducer. The moment shall have a maximum value between 65 lbs-ft and 80 lbs-ft occurring between 47m s and 58 ms, and the positive moment shall decay for the first time to 0 lb-ft between 97 ms and 107 ms.

(2) *Extension.* (i) Plane D, referenced in Figure 21, shall rotate between 81 degrees and 106 degrees, which shall occur between 72 ms and 82 ms from time zero. In first rebound, rotation of Plane D shall cross 0 degrees between 147 ms and 174 ms.

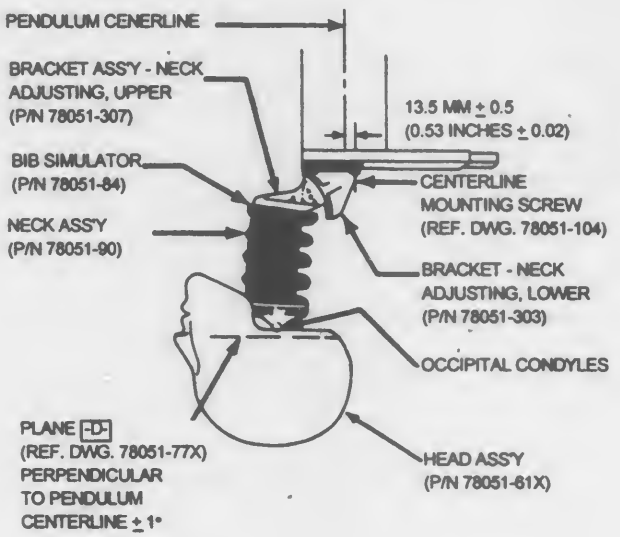
(ii) The moment measured by the six axis neck transducer (drawing C–1709, revision D) about the occipital condyles,

referenced in Figure 21, shall be calculated by the following formula: Moment (lbs-ft) = My − 0.058 × Fx, where My is the moment measured in lbs-ft by the "Y" axis moment sensor of the six axis neck transducer and Fx is the force measured in lbs by the "X" axis force sensor (Channel Class 600) of the six axis neck transducer. The moment shall have a maximum value between—39 lbs-ft and –59 lbs-ft, occurring between 65 ms and 79 ms, and the negative moment shall decay for the first time to 0 lb-ft between 120 ms and 148 ms.

BILLING CODE 4910–59–P

FIGURE 20

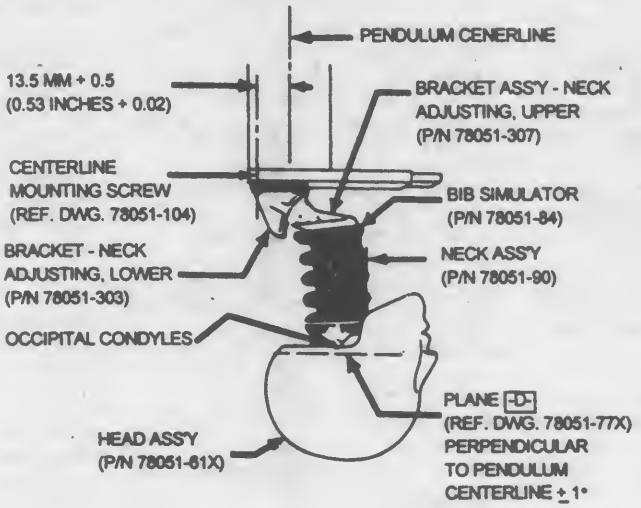
FLEXION - TEST SET-UP SPECIFICATIONS



NOTE: PENDULUM SHOWN AT TIME ZERO POSITION

FIGURE 21

EXTENSION - TEST SET-UP SPECIFICATIONS



NOTE: PENDULUM SHOWN AT TIME ZERO POSITION

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* * * * *

6. Section 572.34 is amended by revising paragraph (b) to read a follows:

§ 572.34 Thorax.

* * * * *

(b) When impacted by a test probe conforming to 572.36(a) at 22 fps ± 0.40 fps in accordance with paragraph (c) of this section, the thorax of a complete dummy assembly (78051–218, revision T) with left and right shoes (78051–294 and –295) removed, shall resist with a force of 1242.5 pounds +/− 82.5 pounds measured by the test probe and shall have a sternum displacement measured relative to spine of 2.68 inches ± 0.18 inches. The internal hysteresis on each impact shall be more than 69% but less than 85%. The force measured is the product of pendulum mass and deceleration.

* * * * *

7. Section 572.36 is amended by revising paragraphs (c), (d), (e), (f), (h), and (i) to read a follows:

§ 572.36 Test conditions and instrumentation.

* * * * *

(c) Head accelerometers shall have dimensions and response characteristics specified in drawing 78051–136, revision A, or its equivalent, and the location of their seismic mass as mounted in the skull are shown in drawing C–1709, revision D.

(d) The six axis neck transducer shall have the dimensions, response characteristics, and sensitive axis locations specified in drawing C–1709, revision D and be mounted for testing as shown in Figures 20 and 21 of § 572.33, and in the assembly drawing 78051–218, revision T.

(e) The chest accelerometers shall have the dimensions, response characteristics, and sensitive mass locations specified in drawing 78051–136, revision A or its equivalent and be mounted as shown with adaptor assembly 78051–116, revision D for assembly into 78051–218, revision T.

(f) The chest deflection transducer shall have the dimensions and response characteristics specified in drawing 78051–342, revision A or its equivalent and be mounted in the chest deflection transducer assembly 78051–317, revision A for assembly into 78051–218, revision T.

* * * * *

(h) The femur load cell shall have the dimensions, response characteristics, and sensitive axis locations specified in drawing 78051–265 or its equivalent and be mounted in assemblies 78051–46 and –47 for assembly into 78051–218, revision T.

(i) The outputs of acceleration and force-sensing devices installed in the dummy and in the test apparatus specified by this part are recorded in individual data channels that conform to requirements of Society of Automotive Engineers (SAE) Recommended Practice J211 Mar95, Instrumentation for Impact Tests, Parts 1 and 2. SAE J211 Mar95 sets forth the following channel classes:

(1) Head acceleration—Class 1000
(2) Neck forces—Class 1000
(3) Neck moments—Class 600
(4) Neck pendulum acceleration—Class 60
(5) Thorax and thorax pendulum acceleration—Class 180
(6) Thorax deflection—Class 180
(7) Knee pendulum acceleration—Class 600
(8) Femur force—Class 1000

* * * * *

Issued on May 12, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97–13183 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 960816226–7115–02; I.D. 050797B]

RIN 0648–AJ04

Atlantic Tuna Fisheries; Regulatory Adjustments

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

ACTION: Interim final rule.

SUMMARY: NMFS amends the regulations governing the Atlantic bluefin tuna fisheries to suspend for 1997 only, the deadline for Atlantic Tunas permit category changes. This regulatory amendment is necessary to provide vessel owners the opportunity to consider category changes after the effective date of a final rule currently under review by NMFS. Because comments were received on the proposed rule that indicated that the rule could affect the allowable operations of several fishing categories, it is not possible for vessel owners to make final choices prior to the previously established deadline of May 15.

DATES: The interim final rule is effective May 15, 1997.

ADDRESSES: Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations to carry out ICCAT recommendations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

This interim final rule responds to certain comments received in response to a proposed rulemaking (62 FR 9726, March 4, 1997) and proposed quota specifications (62 FR 19296, April 21, 1997). Background information about the need for revisions to Atlantic tunas fishery regulations was provided in the proposed rule and specifications and is not repeated here. Certain aspects of the proposed rule, if implemented, would affect catch limits and gear restrictions in several permit categories. Also, final category quotas will affect fishing opportunities available to each category. NMFS received comment that because current regulations require a vessel owner to obtain a permit in the appropriate gear category and allow changes to permit categories only prior to May 15 each calendar year, it would be impossible to make a rational choice of permit category in 1997 until a final rule and final quotas are issued.

This interim final rule suspends indefinitely the deadline to change Atlantic tunas permit categories for calendar year 1997. This regulatory change will allow vessel owners to weigh any impacts of the final rule, when issued, on the operations and restrictions for each permit category. By allowing vessel owners to choose the most appropriate category, this measure will further the domestic management objectives for the Atlantic tuna fisheries.

NMFS is undertaking this action as an interim final rule because of the immediate need to postpone the deadline. This interim action will be superseded when a deadline for 1997 is specified in a final rule to be published at a later date.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990,

the Under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the Federal Register to the AA.

Classification

This interim final rule is published under the authority of the ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that these regulations are necessary to implement the recommendations of ICCAT and are necessary for management of the Atlantic tuna fisheries.

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

This rule involves a collection of information requirement subject to the PRA and approved by OMB under Control Number 0648–0327.

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

NMFS has determined that, under 5 U.S.C. 553(b)(B), there is good cause to waive the requirement for prior notice and an opportunity for public comment on this rule as such procedures would be contrary to the public interest. NMFS has underway rulemakings on this, and other, tuna fishery management issues. Specifically, NMFS published a proposed rule on March 4, 1997 seeking public comment on a variety of tuna issues. Additionally, NMFS published proposed quota specifications on April 21, 1997 seeking public comment on fishing category allocations. However, while the process for these actions remains ongoing, NMFS has received comment that a postponement for 1997 in the deadline to choose a permit category is necessary to allow the public an opportunity to assess the impacts of the pending final rules. As such, given the public interest in affording vessel owners to make a reasoned decision as to fishing category and the fact that NMFS has already received public comment on the subject matter of this rule, further delay in the implementation of this action to provide an opportunity for additional comment is contrary to the public interest.

Further, under 5 U.S.C. 553(d)(1), because this rule relieves a restriction, it is not subject to a 30-day delay in effective date. NMFS has the ability to rapidly communicate the extension of the deadline to fishery participants through its FAX network and HMS Information Line.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: May 14, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285, is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. In § 285.21, paragraph (b)(7) is added to read as follows:

§ 285.21 Vessel permits.

* * * * *

(b) * * *

(7) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas permit to another category a maximum of once per calendar year by application on the appropriate form to NMFS before the specified deadline. After the deadline, the vessel's permit category may not be changed to another category for the remainder of the calendar year, regardless of any change in the vessel's ownership. In years after 1997, the deadline for category changes is May 15.

* * * * *

[FR Doc. 97–13139 Filed 5–15–97; 9:41 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970403076–7114–02; I.D. 030397B]

RIN 0648–AI80

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Allocation Among Nontribal Sectors

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

ACTION: Final rule.

SUMMARY: This rule implements: Allocation of the commercial harvest guideline of Pacific whiting (whiting) among nontribal sectors of the Pacific groundfish fishery; a framework procedure for annually choosing the starting dates of the primary whiting seasons for the nontribal sectors; and allowing the processing of fish waste at sea when at-sea processing of whiting is otherwise prohibited. This rule also implements starting dates for the 1997 primary seasons under the framework. These actions are intended to provide equitable allocation of the whiting resource and to provide flexibility in harvesting and processing opportunities.

DATES: Effective May 14, 1997.

ADDRESSES: Comments on the information collection requirements imposed by this rule should be sent to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115, and to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington DC, 20503.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140.

SUPPLEMENTARY INFORMATION: NMFS is issuing this rule to allocate whiting, establish a framework for setting season dates, and to provide for at-sea processing of whiting waste under the authority of the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). These actions were recommended by the Pacific Fishery Management Council (Council) at its October 1996 meeting in San Francisco, CA and at meetings of its ad hoc whiting allocation subcommittee that were held in 1996. At the same time, NMFS is announcing the starting dates for the primary whiting seasons in 1997 and addressing several housekeeping measures. These actions were proposed in the Federal Register at 62 FR 18572, April 16, 1996. No comments were received during the 20-day public comment period which ended April 30, 1997. This final rule is substantively the same as proposed; the minor changes are explained in this preamble.

The background for these actions appears in the proposed rule and in the environmental assessment/regulatory impact review prepared by the Council for this action. The actions taken are summarized below.

Background

Whiting allocation

The most recent allocation of whiting among nontribal sectors in the whiting

fishery was in effect from 1994–96. Its expiration left no allocation in place for 1997 and beyond. The 1994–96 allocation was based on an industry agreement to provide 40 percent of the whiting harvest guideline to catcher vessels delivering to shore-based processors, plus any additional whiting taken while all sectors competed for the first 60 percent.

The allocations for 1997 and beyond also were derived by industry agreement in a series of public meetings sponsored by the Council. The allocations, which are within a few percent of the proportions actually harvested in 1994–96, are: 42 percent for the shoreside sector (catcher vessels delivering to shoreside processors), 24 percent for the mothership sector (motherships and catcher vessels delivering to motherships), and 34 percent for the catcher/processor sector (catcher/processor vessels). When applied to the 1997 commercial harvest guideline of 207,000 metric tons (mt), these percentages result in whiting allocations of 86,900 mt for the shoreside sector, 49,700 mt for the mothership sector, and 70,400 mt for the catcher/processor sector. Surplus whiting from one sector may be reallocated (via notice in the **Federal Register**) to the other sectors, in proportion to their initial allocations, near September 15. As in 1994–96, only the framework process for calculating the allocations is codified. The allocations will be calculated and announced annually, generally with the annual cycle for announcing specifications and management measures for the groundfish fishery in January each year. Because the shoreside fishery in California (which is south of 42° N. lat.) may start earlier than in Washington and Oregon, a 5–percent cap (4,345 mt in 1997) is placed on the amount of the shoreside allocation that may be taken south of 42° N. lat. before the start of the shoreside primary season north of 42° N. lat. This cap will discourage effort shifts into California early in the year and is not expected or intended to constrain traditional operations. If the 5–percent cap is reached, the routine trip limit under § 660.323(b) is resumed until the northern season begins, at which time the southern primary season also would resume.

Additional constraints were agreed to by the industry to assure that each sector has the opportunity to take its allocation and is not preempted by the high-capacity catcher/processors participating in more than one sector in a given year.

1. Within the same calendar year, a catcher/processor may not also act as a catcher vessel that delivers shoreside or to another at-sea processor.

2. A catcher/processor may operate solely as a mothership for that calendar year, but only if this has been requested and so designated on renewal of its limited entry permit for the Pacific coast groundfish fishery (Office of Management and Budget (OMB) #0648–0203). NMFS has made a slight change to the final rule at § 660.323 regarding recision of a declaration to act as a mothership for the entire calendar year. The modification clarifies that any recision of that declaration can only be made before the vessel has harvested or received any unprocessed whiting during that calendar year.

3. A catcher/processor (that has not declared itself as a mothership for the year) may receive codends over-the-side from a catcher vessel, but any such catch would be counted toward the catcher/processor allocation and would end when the catcher/processor allocation is taken. Catcher vessels that do not process may deliver to any or all of the processing sectors as long as the season for that sector is open.

The Council intends this allocation to remain in effect for at least 5 years, at which time it will be reevaluated.

Seasons

A framework is established for annually setting separate starting dates for each sector's primary season, and the starting dates for 1997 also are announced. The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under § 660.323(b) are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. The framework provides for setting separate starting dates for each sector to accommodate operational needs. However, other factors also must be considered during the Council's two-meeting process, which generally would coincide with the setting of the annual management measures in the fall.

These factors are: The size of the harvest guidelines for whiting and bycatch species; status of whiting and bycatch stocks; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

The starting dates also are constrained by the incidental take statement dated May 14, 1996, issued pursuant to section 7 (b)(4) of the Endangered Species Act (ESA) to protect threatened or endangered species of salmon. The incidental take statement requires that the fishery north of 42° N. lat. not begin before May 15. This constraint remains in effect unless changed in a subsequent incidental take statement.

In 1997, the starting dates are May 15 for the catcher/processor and mothership sectors and June 15 for the shore-based sector north of 42° N. lat. The shore-based fleet operating in California between 42° and 40° 30' N. lat. began fishing in April 1997, but will be able to use the framework to set the starting date for 1998. The season south of 40° 30' N. lat. remains unchanged at April 15 as stated at § 660.323(a)(3)(i), and is not subject to the framework provisions for changing the starting date primarily due to concerns over potential salmon bycatch and harvest of juvenile whiting. However, the whiting fishery in California is subject to the 5–percent cap in 1997, as discussed above.

A slight change was made to § 660.323(a)(3)(i) to clarify that the routine trip limit before and after the primary season potentially could apply to all sectors, as currently is the case, not just the shore-based sector as stated in the proposed rule. The trip limits before and after the primary season currently are designated routine to accommodate small bait and fresh fish markets and bycatch in non-whiting fisheries.

NMFS Action—Starting Dates for the 1997 Primary Whiting Seasons: The primary season for each sector begins at 0001 hours (local time) on the following dates: (1) Catcher/processor sector—May 15, 1997; (2) mothership sector—May 15, 1997; (3) shore-based sector north of 42° N. lat.—June 15, 1997.

Processing Waste Products At Sea

This rule also allows processing fish waste at sea by a "waste processing vessel," even at times when at-sea processing of whiting by catcher/processors or motherships is prohibited. To be considered a "waste-processing vessel," the vessel must make only meal, oil, or minced product and cannot make or have on board surimi, fillet, or headed and gutted fish. The following restrictions assure that no fishing or receipt of whole fish is occurring while at-sea processing of whiting is prohibited:

(1) The vessel must be incapable of fishing for whiting; i.e., trawl nets and doors must be stowed and made inoperable; (2) receipt of codends containing any species of fish would be prohibited; (3) the amount of whole whiting on board must be less than any trip limit for whiting authorized under 50 CFR 660.323(b); and (4) the vessel could not operate as a waste-processing vessel within 48 hours immediately before and after any primary season in which it operates as a catcher/processor or mothership.

Housekeeping

A current prohibition is revised to enable a mothership to carry trawl gear while operating in the whiting fishery as long as trawl gear, clarified to mean trawl nets and doors in this final rule, is stowed and rendered inoperable. Similarly, the requirement for a waste-processing vessel to stow trawl gear also is clarified to indicate that trawl gear means trawl nets and doors.

A regulation issued on June 6, 1996, (61 FR 28786, authorized under old § 663.24) provided for whiting not needed in the tribal fishery to be made available to other users. This provision was inadvertently deleted when the regulations governing the Pacific Coast groundfish fisheries were consolidated at 61 FR 34570, July 2, 1996, with all other regulations governing the fisheries off the west coast states and in the Western Pacific, and therefore is included in this rule. Also in the consolidation, an error was made in paragraph (b) of § 660.306 regarding the citation for the definition of prohibited species and a typo exists in paragraph (r) of § 660.306. The corrections are included in this rule.

As part of the 1996 reorganization of NMFS, Regional Directors were retitled as Regional Administrators; however, the term Regional Director is still used in codified text until a universal change is made to 50 CFR 660.

Paragraphs (s) and (t) in § 660.306 are "reserved" for implementation of Amendment 9 to the PCGFMP which was approved by NMFS on May 8, 1997. Proposed regulations to implement Amendment 9 were published on March 21, 1997 (62 FR 13583).

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule is necessary for management of the Pacific Coast groundfish fishery and that it is consistent with the Magnuson-Stevens Act and other applicable law.

Without the final rule being in place by May 15, the season north of 42° N. lat. will open on May 15 (50 CFR 660.323(a)(3)) without any allocation between competing sectors. A derby fishery would ensue and a substantial portion of the harvest guideline could be taken before the final rule was made effective, thereby disrupting 1997 allocations that would be implemented by the final rule. For these reasons, good cause is found under 5 U.S.C. 553(d)(3) for making the rule effective without a 30-day delay.

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

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

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid control number.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the OMB, OMB Control Number 0648–0203. Public reporting burden is estimated to be negligible due to this action, as it involves, concurrent with renewal of a limited entry permit, checking a box to indicate if a catcher/processor will operate entirely as a mothership in the whiting fishery during the year covered by the permit. Fewer than 15 catcher/processors operate in this fishery, and even fewer are expected to exercise this option. Send comments regarding burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

A formal section 7 consultation under the ESA was concluded for the PCGFMP. In a biological opinion dated August 28, 1993, and subsequent reinitiations of consultation dated September 27, 1993, and May 15, 1996, the Assistant Administrator determined that fishing activities conducted under the PCGFMP and its implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This rule is within the scope of those consultations. In addition, coho salmon south of Cape Blanco, Oregon, recently have been listed as threatened (Northern California/Southern Oregon) and endangered (Central California) under the ESA. This action will not affect coho salmon.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 14, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.306, in paragraph (b), the reference to "§ 660.302" is changed to "§ 660.323(c)", paragraphs (j), (k), (m), (q), and (r) are revised, paragraphs (s) and (t) are reserved, and paragraphs (u), (v), and (w) are added, to read as follows:

§ 660.306 Prohibitions.

* * * * *

(j) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless:

(1) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324;

(2) The fish are processed by a waste-processing vessel according to § 660.323(a)(4)(vii); or

(3) The vessel is completing processing of whiting taken on board during that vessel's primary season.

(k) Take and retain or receive, except as cargo or fish waste, whiting on a vessel in the fishery management area that already possesses processed whiting on board, during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless the fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324.

* * * * *

(m) Fish with groundfish trawl gear, or carry groundfish trawl gear on board

a vessel that also has groundfish on board, without having a limited entry permit valid for that vessel affixed with a gear endorsement for trawl gear, with the following exception. A vessel with groundfish on board may carry groundfish trawl gear if:

(1) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California; or

(2) The vessel is a mothership, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

* * * * *

(q) Carry on board a vessel, or deploy, limited entry gear when the limited entry fishery for that gear is closed, except a vessel may carry on board limited entry gear as provided in paragraph (m) of this section.

(r) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(s) [Reserved.]

(t) [Reserved.]

(u) Participate in the mothership or shoreside sector as a catcher vessel that does not process fish, if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to § 660.323(a)(4)(ii)(B).

(v) Operate as a waste-processing vessel within 48 hours of a primary season for whiting in which that vessel operates as a catcher/processor or mothership, according to § 660.323(a)(4)(vii).

(w) Fail to keep the trawl doors on board the vessel and attached to the trawls on a vessel used to fish for whiting, when taking and retention is prohibited under § 660.323(a)(3)(v).

3. In § 660.323, paragraphs (a)(3)(i), (a)(3)(iv), and (a)(4) are revised to read as follows:

§ 660.323 Catch restrictions.

* * * * *

(a) * * *

(3) *Pacific whiting (whiting)*—(i) *Seasons.* The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under paragraph (b) of this section are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. Before and after the primary seasons, trip landing or frequency limits may be imposed under paragraph (b) of this section. The sectors are defined at paragraph (a)(4) of this section.

(A) *North of 40°30' N. lat.* Different starting dates may be established for the catcher/processor sector, the mothership sector, catcher vessels delivering to shoreside processors north of 42° N. lat., and catcher vessels delivering to shoreside processors between 42°–40°30' N. lat.

(*1*) *Procedures.* The primary seasons for the whiting fishery north of 40°30' N. lat. generally will be established according to the procedures in the PCGFMP for developing and implementing annual specifications and apportionments. The season opening dates remain in effect unless changed, but will be announced annually, generally with the annual specifications and management measures.

(*2*) *Criteria.* The start of a primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(B) *South of 40°30' N. lat.* The primary season starts on April 15 south of 40°30' N. lat.

* * * * *

(iv) *At-sea processing.* Whiting may not be processed at sea south of 42°00' N. lat. (Oregon-California border), unless by a waste-processing vessel as authorized under paragraph (a)(4)(vii) of this section.

* * * * *

(4) *Whiting—allocation*—(i) *Sectors and allocations.* The commercial harvest guideline for whiting is allocated among three sectors, as follows.

(A) *Sectors.* The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting during a calendar year. The shoreside sector is composed of vessels that harvest whiting for delivery to shore-based processors.

(B) *Allocations.* The allocations are: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shoreside sector. No more than 5 percent of the shoreside allocation may be taken and retained south of 42° N. lat. before the start of the primary season north of 42° N. lat. These allocations are harvest guidelines unless otherwise announced in the **Federal Register**.

(ii) *Additional restrictions on catcher/processors.*

(A) A catcher/processor may receive fish from a catcher vessel, but that catch is counted against the catcher/processor allocation unless the catcher/processor has been declared as a mothership under paragraph (a)(4)(ii)(C) of this section.

(B) A catcher/processor may not also act as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.

(C) When renewing its limited entry permit each year under § 660.333, the owner of a catcher/processor used to take and retain whiting must declare if the vessel will operate solely as a mothership in the whiting fishery during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit holder. Any request to rescind a declaration must made by the permit holder and granted in writing by the Regional Director before any unprocessed whiting has been taken on board the vessel that calendar year.

(iii) *Reaching an allocation.* If the whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached, the following action(s) for the applicable sector(s) may be taken as provided under paragraph (a)(4)(vi) of this section and will remain in effect until additional amounts are made available the next fishing year or under paragraph (a)(4)(iv) of this section.

(A) *Catcher/processor sector.* Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(B) *Mothership sector.* (*1*) Further receiving or at-sea processing of whiting by a mothership is prohibited. No

additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited.

(*2*) Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(C) *Shoreside sector.* Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shoreside sector except as authorized under a trip limit specified under § 660.323(b).

(D) *Shoreside south of 42°* N. lat. If 5 percent of the shoreside allocation for whiting is taken and retained south of 42° N. lat. before the primary season for the shoreside sector begins north of 42° N. lat., then a trip limit specified under paragraph (b) of this section may be implemented south of 42° N. lat. until the northern primary season begins, at which time the southern primary season would resume.

(iv) *Reapportionments.* That portion of a sector's allocation that the Regional Director determines will not be used by the end of the fishing year shall be made available for harvest by the other sectors, if needed, in proportion to their initial allocations, on September 15 or as soon as practicable thereafter. NMFS may release whiting again at a later date to ensure full utilization of the resource. Whiting not needed in the fishery authorized under § 660.324 also may be made available.

(v) *Estimates.* Estimates of the amount of whiting harvested will be based on actual amounts harvested, projections of amounts that will be harvested, or a combination of the two. Estimates of the amount of whiting that will be used by shoreside processors by the end of the fishing year will be based on the best information available to the Regional Director from state catch and landings data, the survey of domestic processing capacity and intent, testimony received at Council meetings, and/or other relevant information.

(vi) *Announcements.* The Assistant Administrator will announce in the **Federal Register** when a harvest guideline, commercial harvest guideline, or an allocation of whiting is reached, or is projected to be reached, specifying the appropriate action being taken under paragraph (a)(4)(iii) of this section. The Regional Director will announce in the **Federal Register** any reapportionment of surplus whiting to other sectors on September 15, or as soon as practicable thereafter. In order to prevent exceeding the limits or to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or reapportionment of surplus whiting may be made effective immediately by actual notice to fishermen and processors, by phone, fax, Northwest Region computerized bulletin board (contact 206–526–6128), letter, press release, and/or U.S. Coast Guard Notice to Mariners (monitor channel 16 VHF), followed by publication in the **Federal Register**, in which instance public comment will be sought for a reasonable period of time thereafter. If insufficient time exists to consult with the Council, the Regional Director will inform the Council in writing of actions taken.

(vii) *Processing fish waste at sea.* A vessel that processes only fish waste (a "waste-processing vessel") is not considered a whiting processor and therefore is not subject to the allocations, seasons, or restrictions for catcher/processors or motherships while it operates as a waste-processing vessel. However, no vessel may operate as a waste-processing vessel 48 hours immediately before and after a primary season for whiting in which the vessel operates as a catcher/processor or mothership. A vessel must meet the following conditions to qualify as a waste-processing vessel:

(A) The vessel makes meal (ground dried fish), oil, or minced (ground flesh) product, but does not make, and does not have on board, surimi (fish paste with additives), fillets (meat from the side of the fish, behind the head and in front of the tail), or headed and gutted fish (head and viscera removed).

(B) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under paragraph (b) of this section.

(C) Any trawl net and doors on board are stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(D) The vessel does not receive codends containing fish.

(E) The vessel's operations are consistent with applicable state and Federal law, including those governing disposal of fish waste at sea.

* * * * *

[FR Doc. 97–13120 Filed 5–14–97; 4:59 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 960614176–7112–03; I.D. 041797B]

RIN 0648–AI19

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Technical Amendment

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

ACTION: Final rule.

SUMMARY: NMFS announces a final rule to correct regulations implementing the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP) to clarify what records must be made available by first-level buyers upon request by an authorized officer.

EFFECTIVE DATE: May 20, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Katekaru, NMFS, (808) 973–2985 or Mr. Svein Fougner, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: Upon request, a first-level buyer must allow an authorized officer to access, inspect, and copy all records relating to the harvest, sale, or transfer of management unit species taken by vessels in the fishery. The original FMP regulations at 50 CFR part 681.11 stated this explicitly.

On July 2, 1996, the regulations at 50 CFR part 681 were consolidated with regulations for fisheries off west coast states and in the western Pacific; the regulations were codified at 50 CFR part 660 (61 FR 34570). In part 660, paragraph 660.14(f)(2) was not transferred correctly from § 681.11 (i.e., text was inadvertently left out). This rule corrects that paragraph to include: The name of the vessel involved in each transaction and the owner or operator of the vessel; the amount, number, and size of each management unit species involved in each transaction; and prices paid by the buyer and proceeds to the seller in each transaction.

Classification

This final rule is issued under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C 1801 *et seq.*

In that this rule merely clarifies an existing requirement without creating

any new rights or duties, it is not subject to opportunity for public comment under 5 U.S.C. 553(b)(A). Similarly, it is not subject to a 30-day delay in effective date under 5 U.S.C. 553(d).

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

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, National Oceanic and Atmospheric Administration, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: May 14, 1997.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The heading for part 660 is revised as set forth above.

2. The authority citation for part 660 continues to read as follows:

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

3. In § 660.14, paragraph (f)(2) is revised to read as follows:

§ 660.14 Reporting and recordkeeping.

* * * * *

(f) * * *

(2) *Crustaceans management unit species.* Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Director, to access, inspect, and copy all records relating to the harvest, sale, or transfer of crustacean management unit species taken by vessels that have permits issued under this subpart or that are otherwise subject to subpart D of this part. This requirement may be met by furnishing the information on a worksheet provided by the Regional Director. The information must include, but is not limited to:

(i) The name of the vessel involved in each transaction and the owner or operator of the vessel.

(ii) The amount, number, and size of each management unit species involved in each transaction.

(iii) Prices paid by the buyer and proceeds to the seller in each transaction.

* * * * *

[FR Doc. 97–13127 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 97
Tuesday, May 20, 1997

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 Parts 1005, 1007, 1011, and 1046

[Docket No. AO–388–A9, et al.; DA–96–08]

Milk in the Carolina and Certain Other Marketing Areas; Partial Final Decision

7 CFR part	Marketing area	Docket No.
1005	Carolina	AO–388–A9
1007	Southeast	AO–366–A38
1011	Tennessee Valley	AO–251–A40
1046	Louisville-Lexington-Evansville.	AO–123–A67

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision would modify interim amendments which established transportation credit provisions in 4 Federal milk orders in the Southeastern United States. The interim amendments were based upon proposals that were considered at a public hearing held in Charlotte, North Carolina. The proposed modifications to the interim amendments are based upon additional testimony heard at a reopened hearing held in Atlanta, Georgia. The major modifications would increase the maximum assessment by one cent or less in two of the orders to pay for transportation costs and eliminate the reduction of blend prices to producers to pay for transportation costs. The amendments adopted in this decision will become effective if approved by the producers in the affected markets.

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P. O. Box 96456, Washington, DC 20090–6456 (Tel:202/690–1932; E-mail:NMemoli@USDA.gov).

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

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

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may 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 the law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. No new entities will be regulated as a result of the proposed rules, and any changes experienced by handlers will be of a minor nature.

For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

The milk of approximately 8,600 producers is pooled on the Carolina, Southeast, Tennessee Valley and Louisville-Lexington-Evansville milk orders. Of these producers, 95 percent produce below the 326,000-pound production guideline and are considered to be small businesses.

There are 43 handlers operating pool plants under the four orders. Of these handlers, 22 have fewer than 500 employees and qualify as small businesses.

The proposed rules amending the transportation credit provisions will promote orderly marketing of milk by producers and regulated handlers operating within the 4 marketing areas. This decision eliminates the provision which provides for the transfer of funds from the producer-settlement fund to the transportation credit balancing fund when the latter is insufficient to cover the amount of credits to be distributed to handlers for a given month. Thus, the possibility of a reduction of uniform prices to producers resulting from transportation credits will no longer exist.

This decision also modestly increases the handler assessment from 6 cents to 6.5 cents per hundredweight of Class I producer milk in the Carolina market and to 7 cents per hundredweight in the Southeast market, but maintains the current 6-cent assessment in the Tennessee Valley and Louisville-Lexington-Evansville markets. A 6-cent per hundredweight assessment translates to approximately one-half cent per gallon of milk. The one-half to one-cent assessment increase in Federal Orders 1005 and 1007 may negatively impact some small businesses, as any price increase would, but it may also positively impact other small businesses by providing more funds for transportation credits.

At present, all handlers regulated under the 4 milk orders involved in this

proceeding file a monthly report of receipts and utilization with the market administrator. The proposed amendments will not significantly add to the amount of information required to be reported by those handlers requesting transportation credits. The estimated time to collect, aggregate, and report this information will vary directly with the amount of milk for which credits are requested, but should not be significant.

Prior Documents in This Proceeding

Notice of Hearing: Issued May 1, 1996; published May 3, 1996 (61 FR 19861).

Tentative Partial Final Decision: Issued July 12, 1996; published July 18, 1996 (61 FR 37628).

Interim Amendment of Orders: Issued August 2, 1996; published August 9, 1996 (61 FR 41488).

Extension of Time for Filing Comments: Issued August 16, 1996; published August 23, 1996 (61 FR 43474).

Extension of Time for Filing Comments: Issued October 18, 1996; published October 25, 1996 (61 FR 55229).

Notice of Reopened Hearing: Issued November 19, 1996; published November 25, 1996 (61 FR 59843).

Preliminary Statement

A public hearing was held to consider proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice (7 CFR Part 900), in Charlotte, North Carolina, on May 15–16, 1996, and in Atlanta, Georgia, on December 17–18, 1996. Notice of the May hearing was issued on May 1, 1996, and published May 3, 1996 (61 FR 19861).

An interim order amending the orders was issued on August 2, 1996, and published on August 9, 1996 (61 FR 41488). The interim amendments became effective on August 10, 1996.

Following 3 months' experience with the interim amendments, the industry requested, and the Department agreed, to reopen the hearing to receive additional evidence concerning their impact. This hearing was held in Atlanta, Georgia, on December 17–18, 1996, following a notice of such reopened hearing that was issued on November 19, 1996, and published on November 25, 1996 (61 FR 59843).

Interested parties were given until January 24, 1997, to file post-hearing briefs on proposals following the reopened hearing.

The material issues on the record of the hearing relate to:

1. Transportation credits for supplemental bulk milk received for Class I use.

2. Deductions from the minimum uniform price to producers.

3. Whether emergency marketing conditions in the 4 regulated marketing areas warrant the omission of a recommended decision with respect to Issue No. 1 and the opportunity to file written exceptions thereto.

4. The definition of producer.

This partial final decision only deals with Issue 1. Issue 3 was discussed in the tentative partial final decision that was issued July 12, 1996, and is now moot. Issues 2 and 4 will be handled through normal rulemaking procedures in a forthcoming recommended decision.

Summary of Changes to the Interim Amendments

This final decision differs from the tentative decision in several respects. The key changes in the order amendments are as follows:

1. The provision providing for a transfer of funds from the producer-settlement fund to the transportation credit balancing fund when the latter fund has an insufficient balance to pay for the month's transportation credits has been removed. Instead, the available balance in the transportation credit balancing fund each month will be prorated to handlers applying for transportation credits for that month. See § 100X.82(a).

2. The assessment for the transportation credit balancing fund has been raised from 6 cents to 6.5 cents per hundredweight for the Carolina order and to 7 cents per hundredweight for the Southeast order. See §§ 1005.81(a) and 1007.81(a).

3. The per mile rate for computing the transportation credit has been reduced from 0.37 cent to 0.35 cent per hundredweight of milk. See § 100X.82(d)(2)(ii) and (d)(3)(iv).

4. A net shipment provision has been added to each of the 4 orders. This provision reduces the pounds of milk eligible for a transportation credit at a pool plant by the amount of milk transferred from that pool plant to a nonpool plant on the same calendar day the supplemental milk was received. See § 100X.82(d)(1).

5. The computation of the transportation credit for producer milk has been changed to more closely match the way the transportation credit is computed for milk that is transferred from an other order plant. In particular, if the farm "origination point" is within another Federal order's marketing area, the Class I price at the origination point shall be the price that would apply at that location under the provisions of the order covering that area. See § 100X.82(d)(3)(v). In addition, in computing the credit for farm-to-plant milk there is a deduction of 85 miles from the distance between the farm origination point and the receiving plant. See § 100X.82(d)(3)(iii). Finally, the proportion of producer milk that is eligible for the transportation credit has been changed to more closely reflect the proportion of other order plant milk that would receive the credit. See § 100X.82(c)(2)(i).

6. The restricted area from which producer milk would be considered ineligible to receive a transportation credit has been revised to include six Kentucky counties—Allen, Barren, Metcalfe, Monroe, Simpson, and Warren—in addition to the specified marketing areas of Federal Orders 1005, 1007, 1011, or 1046. See § 100X.82(c)(2)(iii).

7. The months during which the market administrator may extend transportation credits have been changed from January through June to January and June. See § 100X.82(b).

8. The limitation on the amount of milk that may be delivered as producer milk without being disqualified for transportation credits has been changed from 32 days of production to 50 percent of the dairy farmer's total production during not more than 2 months of January through June when the dairy farmer was a producer. See § 100X.82(c)(2)(ii).

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Transportation Credits for Supplemental Bulk Milk Received for Class I Use. The tentative decision issued on July 12, 1996, concluded that Federal Milk Orders 1005, 1007, 1011, and 1046 (hereinafter referred to as "the 4 orders") should be amended to provide transportation credits for supplemental bulk milk that is transferred from an other order plant to a pool plant and for supplemental bulk milk imported directly from producers' farms during the months of July through December. Additionally, the decision concluded that a handler assessment on the total pounds of Class I producer milk should be added to each order to fund the transportation credits.

This final decision reaffirms the conclusions of the earlier decision, but also recommends changes to that decision based upon the testimony of the reopened hearing. This decision consists of four parts. Part 1 is a brief summary of the testimony and briefs resulting from the initial hearing; part 2 is a summary of the interim amendments that were adopted in the July 12, 1996, tentative decision; part 3 is a summary of the testimony and briefs resulting from the reopened hearing; and part 4 explains why the interim amendments should be modified.

A Brief Summary of Testimony and Briefs Resulting From the May 15–16, 1996 Hearing

A transportation credit for bulk milk received from an other order plant for Class I use was proposed by Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents approximately 50 percent of the producers in Orders 5, 7, and 11, and nearly one-third of the producers in Order 46. According to Mid-Am, the Southeast States are chronically short of milk for fluid use at certain times of the year, namely the late summer and fall months. Mid-Am stated that the costs of supplying handlers with an adequate supply of fluid milk fall disproportionately on cooperative associations serving these markets. Arguing that the Agricultural Marketing Agreement Act provides for "marketwide service payments" to provide for greater equity between producers and handlers supplying a market with supplemental milk, Mid-Am testified that the Secretary should immediately amend the 4 orders to incorporate transportation credits into the 4 orders on milk that is transferred from other order plants.

Carolina Virginia Milk Producers Association (CVMPA), a cooperative association with producers supplying plants regulated under all 4 orders, stated that the Mid-Am proposal should be expanded to also include supplemental milk received directly from producers' farms. CVMPA noted that it imported far more supplemental milk directly from producers' farms than from other order plants during the months of July through December 1995.

The proposal to include supplemental milk shipped directly from producers' farms was endorsed by both handlers and other cooperative associations. Receiving milk in this manner, it was argued, would encourage hauling efficiencies, improve milk quality, eliminate pump-over expenses, and reduce product loss due to handling.

Fleming Dairy, a handler operating in Tennessee and Louisiana, supported the transportation credit concept, but argued for a shorter transportation credit period than was proposed by Mid-Am. Fleming stated that extension of the transportation credit period should be removed from the proposal.

Several witnesses suggested that the rate of 0.39 cent per mile that was proposed by Mid-Am for computing a transportation credit was too high. Testimony was also given regarding the necessity of restricting transportation credits on bulk milk transfers between the 4 orders.

Several proprietary handlers testified in opposition to the proposed transportation credits by arguing that the assessments would create competitive disadvantages among handlers. The record indicated that several handlers feared that marketing practices, such as stair-stepping milk from one market to another, would result in false shortages in the shipping market and, thus, that the cost of obtaining additional milk supplies would not be shared equitably among handlers.

Briefs filed by various handlers reiterated their reservations regarding transportation credits. It was maintained that the milk shortage situation in the Southeast should be dealt with through means outside of the order system, such as over-order premiums. Issues such as Class III–A pricing and stair-stepping of milk were addressed as concerns which could jeopardize the true intent of transportation credits to compensate handlers for costs incurred in obtaining supplemental supplies of milk for fluid use.

While acknowledging that sufficient testimony and record evidence was offered in support of transportation credits, additional briefs submitted by interested parties cautioned the Department against potential abuse. Offsetting milk shipments into and out of the marketing areas, establishing historical milk movements, and limiting the amount of credits available (e.g. deducting the first 100 miles) were all addressed as areas of concern.

One handler opposed the incorporation of transportation credits in total, claiming that such credits were money-shifting schemes proposed by those who have made no efforts to develop business relationships to ensure a steady supply of milk. The brief of another handler suggested limiting assessments to Class I sales made within the 4 marketing areas.

Several of the post-hearing briefs argued that supplemental producer milk, as well as plant-to-plant milk, should be eligible for credits. CVMPA offered a definition of "supplemental milk" as the milk of dairy farmers which is only pooled during the months of short production. Suggestions for supplemental producer ineligibility were offered to distinguish such producers from those normally associated with subject markets. Recommendations on how to determine an origination point for producer milk were also proposed, including taking into consideration differences in Class I prices at the receiving plant and the origination point.

In its post-hearing brief, Mid-Am emphasized that cooperatives were bearing a disproportionate burden in supplying these markets with supplemental milk. It argued that the cost associated with such milk cannot be passed along to their customers and that absorbing this cost placed their member producers at a competitive disadvantage relative to non-member producers who do not share in this cost. Mid-Am also pointed out that the incorporation of transportation credits would conform with past agency decisions and would facilitate securing adequate supplies of milk to meet the markets' fluid needs. It indicated that its proposal should be expanded to provide transportation credits for producer milk as well as plant milk.

Interim Amendments Effective August 10, 1996

Following the May hearing, interim amendments providing for transportation credits became effective for the 4 orders on August 10, 1996. The amendments provided transportation credits to pool plant operators and cooperative associations for Class I bulk milk received from an other order plant and for milk received directly from producers' farms and used in Class I.

Handlers and cooperative associations are required to report to the market administrator receipts of bulk milk from other order plants and receipts of producer milk, including the identity of individual producers, for which transportation credits are requested pursuant to Section 30 of the orders.

For plant milk, the credit is limited to milk that is allocated to Class I. It is computed at a rate equal to 0.37 cent per mile per cwt. based on the distance from the transferor plant to the transferee plant. The resulting number is reduced to the extent that the Class I price at the receiving plant exceeds the Class I price at the shipping plant to arrive at the transportation credit for that load of milk.

In the case of milk received directly from producers' farms, the origination

point of a bulk tank truck containing more than one producer's milk is either the city closest to the farm from which the last farm pickup was made or the location specified on a certified weight receipt obtained at an independently-operated truck stop after the last farm pickup has been made. The credit is computed by multiplying 0.37 cent times the number of miles between the origination point and the location of the plant receiving the milk, less any positive difference in the Class I prices at the two points under the order receiving the milk.

Transportation credits are limited to the months of July through December; however, an extension may be requested for any of the months of January through June. During the months of January through June, the market administrator has the authority to expand the transportation credit period if market conditions indicate that producer milk for Class I use will be in short supply and the marketwide Class I utilization is likely to exceed 80 percent. Such a request must be made in writing at least 15 days prior to the beginning of the month for which it is to be effective and requires the market administrator to issue a decision on the request by the first day of the month for which it is to be effective.

Pursuant to the interim amendments, the credits are limited to transfers from other order plants that are not regulated under Orders 5, 7, 11, or 46. This provision was added in response to concerns expressed at the hearing that handlers in one of these 4 markets could be required to pay for transporting milk into another of these markets in the absence of any such restriction.

Certain location restrictions are also provided for supplemental producer milk. Transportation credits do not apply to the milk of any producer whose farm is located within any of the 4 marketing areas. In addition, the farm must be at least 85 miles away from the plant to which the milk is delivered.

In order to receive credits on producer milk, the producer cannot be normally associated with the market in which the credit is requested. A producer's milk is eligible to receive such credits as long as the dairy farmer was not a producer under the order during more than 2 of the immediately preceding months of January through June and not more than 32 days' production of such farmer was received as producer milk on the market.

The interim amendments adopted a transportation credit balancing fund, as well as a 6-cent per hundredweight (or lesser amount) monthly assessment on Class I producer milk to provide revenue for the fund. The higher of the hauling credits distributed in the immediately preceding 6 months or in the preceding July–December period is used to determine the current month's assessment level. The market administrator is authorized to maintain the transportation credit balancing fund, deposit assessments into it, and distribute transportation credits from it. Payments due from a handler are offset against payments due to a handler. The assessment for the transportation credit balancing fund is announced on the 5th day of the month preceding the month to which it applies.

In the event that the transportation credit balancing fund is insufficient to cover the cost of the transportation credits to be distributed, the difference is deducted from the producer-settlement fund.

Testimony and Briefs Resulting From the Reopened Hearing

At the reopened hearing, Mid-Am testified that it supports the continuation of transportation credits in the 4 orders, but that certain modifications should be made to fine-tune the provisions. Mid-Am testified that changes should be made in the provisions applicable to producer milk, but that no changes were needed with respect to the provisions applicable to other order plant transfers.

Mid-Am testified that: (a) the credits applicable to a load of producer milk should be comparable to those applicable to milk received from an other order plant; (b) the mileage for computing credits should be reduced by 85 miles from the origination point to the receiving plant; (c) the transportation credit computation on producer milk should reflect the difference between the shipping order's Class I price at the origination point and the receiving order's Class I price at the receiving plant; and (d) the geographic area from which producers would be ineligible to receive credits on their milk should be further expanded and clarified, including basing points found on the edges of the marketing areas. In addition, Mid-Am proposed a revision to Section 78, Charges on Overdue Accounts, in the Carolina, Southeast, and Louisville-Lexington-Evansville orders to include payments of transportation credit assessments due pursuant to Section 81 of the orders.

Carolina-Virginia Milk Producers Association (CVMPA), a cooperative association with producers supplying plants regulated under all 4 orders, testified in support of Mid-Am's proposal to modify the transportation credits. CVMPA testified that, like Mid-Am, it believes that the interim amendments are in need of some fine-tuning so that the credits available on producer milk are comparable to those available on plant milk. Also, CVMPA said that Mid-Am's proposed changes will reduce the total amount of credits available on producer milk, thereby lessening the probability that the value of the credits distributed will exceed available funds.

Associated Milk Producers, Inc. (AMPI), a cooperative association representing producers in the South and Southwest which also operates manufacturing facilities in various states, testified in support of the basic concept proposed by Mid-Am and CVMPA, but stated that certain modifications to such proposals should be considered. AMPI testified that it supports the proposal regarding the equalization of transportation credits granted to producer milk imports and plant milk shipments, but opposes the institution of basing points and the 85-mile exclusion rule to establish producer milk ineligibility for transportation credits. AMPI argued that the ineligibility requirement would cause the uneconomical movement of milk because supplemental supply sources in relatively close areas, such as eastern Texas, would be passed over since supplemental producer milk from that area would not receive any transportation credits. AMPI testified that it does not oppose other aspects of Mid-Am's proposed modifications, such as deducting the first 85 miles from the hauling distance to compute the transportation credit value and having the credit cover only that portion of a producer's load that is allocated to Class I.

AMPI also suggested including a net shipment provision as it pertains to transportation credits on a daily or monthly basis. AMPI argued that transportation credits should not be available on milk received by a plant when on the same day the same milk may be diverted or transferred to other order plants. While being unaware of any such abuse currently, AMPI said that inclusion of such a provision would prevent the encouragement of future abuse.

AMPI also testified that the transportation credits, as currently structured, have created disorderly marketing conditions by establishing an incentive for handlers to solicit producers away from cooperatives during the transportation credit period. Although AMPI contended that it had not lost producer membership, AMPI testified that other cooperatives had lost some membership.

Testimony was also offered by a spokesman on behalf of Piedmont Milk Sales, an organization that markets the milk of 277 dairy farmers to handlers in the Southeast. Piedmont testified that the provision which permits funds to be transferred from the producer-settlement fund to the transportation credit balancing fund when the latter fund has an insufficient balance to pay the month's transportation credits has been detrimental to dairy farmers in the Southeast. Piedmont testified that the loss of income to producers reflected in their reduced blend prices is contrary to the economic philosophy relied on in half a century of Federal order and price support administration.

Piedmont pointed out that the May 1996 hearing record indicated that the impact on the blend price would be less significant than has actually occurred, suggesting, perhaps, that abuse of the transportation credits has occurred and will continue to occur in the absence of any modification of the provision. In order to curtail abuse, Piedmont suggested that transportation credits be prorated on the basis of available funds collected from handlers and deposited into the transportation credit balancing fund.

Piedmont also called for the restriction of credits on producer milk by including a provision which would eliminate credits on milk shipped directly from distant farms unless such milk was diverted between markets; it should then be treated as if it were plant milk. In essence, Piedmont argued for the tightening of the transportation credit provisions to prevent the uneconomic movement of milk from sources as far as California. The rate of 0.37 cent/mile also was criticized as being too high; however, no specific alternative rate was offered.

Piedmont supported a net shipment provision which would reduce the amount of transportation credits obtained by a handler if that handler shipped milk to a plant not regulated under any of the 4 orders. While conceding that some transfers and diversions were justified and did not constitute abuse, Piedmont contended that it is the responsibility of the handler to demonstrate that supplemental milk actually moved into such order(s) if a credit is requested.

In response to questions regarding the computation of the credits for the various orders, Piedmont stated that currently under the interim amendments the procedure used to compute such credits is not identical for each of the orders with respect to location adjustments. In order to promote greater equity, Piedmont suggested that the procedures used in Orders 11 and 46 for such computation should be used for all 4 orders.

Several Southeastern dairy farmers testified at the reopened hearing to oppose and voice their concerns over the reduction in blend prices resulting from the implementation of the transportation credits. One dairy farmer stated that he does not understand why Class I utilization rates have dropped in his marketing area in recent months, while, at the same time, supplemental milk is being imported and is eligible for transportation credits. Many of the farmer witnesses complained that by deducting the difference between the amount of credits to be paid out and the amount of funds available to cover these credits from the producer-settlement fund, dairy farmers are penalized and handlers are provided an incentive to continue to bring in milk whether it is needed or not.

One dairy farmer stated that the importation of supplemental milk would contribute to the demise of the dairy industry in the South. He contended that hauling in supplemental milk does not benefit local suppliers of feed or fertilizer and will eventually harm the Southeastern economy. He also expressed concern about price uncertainty which, he said, is exacerbated as a result of the transportation credits. One dairy farmer maintained that producers already have to contend with a number of variable factors affecting their blend price (including the weather and drought) and should not be subject to any additional uncertainties which may further reduce their blend price. He stated that once the blend price is reduced, the dairy farmer has no way to recoup the loss and cannot pass that cost along to anybody else.

Another dairy farmer testified that it is unfair and illogical to reduce the blend price in the Southeast to bring in supplemental milk when milk is also moving out of the area. He stated that he welcomes competition from dairy farmers outside the Southeast area, but that Southeast dairy farmers should not be responsible in any way for hauling their distant competitors' milk into the area. He said that, in essence, this has occurred with the implementation of the transportation credit provisions.

Kraft, Inc. (Kraft), which operates manufacturing plants in several states, testified that it is generally not opposed to "cautious and conservative use of transportation credits where necessary to assure that milk required for Class I use is equitably and adequately supplied." Kraft contended that the transportation credit provisions adopted in the interim amendments appear to provide a financial incentive to acquire distant supplemental producer milk rather than plant milk by absorbing some of the hauling charges that would normally be paid by the supplying producer. Kraft testified that the credits should be continued, but that there should be an equalization of incentives and/or disincentives with respect to plant milk versus producer milk.

Kraft also testified that if a net shipment provision is to be incorporated into the transportation credit program, it should only include milk which has been transferred or diverted for Class I use to another handler.

Milk Marketing, Inc. (MMI), speaking on behalf of its member producers whose milk is pooled under Order 46, testified that it supports Mid-Am's and CVMPA's proposal to modify the interim amendments. MMI contended that such proposed modifications are needed to resolve issues of equity involving producer milk and plant milk. In addition, MMI stated that it firmly believes that producer milk normally associated with the market should continue to be ineligible to receive transportation credits.

Fleming Dairy, which operates pool distributing plants in Nashville, Tennessee, and Baker, Louisiana, testified that it opposes any increase of the current 6-cent assessment rate that is charged to handlers regulated under the 4 orders. Fleming also addressed the issue of net hauling provisions by stating that this is an area which needs to be examined more thoroughly.

When asked about funds taken from the producer-settlement fund to supplement the transportation credit balancing fund, Fleming testified that Mid-Am's and CVMPA's proposals to reduce the amount of credits given out will most likely result in a situation where a 6-cent assessment will be enough to cover the value of the credits. Fleming testified, however, that transportation credits primarily benefit dairy farmers and, for this reason, it is appropriate to have all producers supplement the funds available for credits by a reduction in the blend price. In conclusion, Fleming testified that without transportation credits, it would have had less money available within the company to pay premiums to independent dairy farmers. Thus, according to Fleming Dairy, dairy farmers have benefited from the incorporation of transportation credits.

A witness representing Dairy Fresh Corp. and Barber Pure Milk Co., two handlers operating pool plants regulated under Order 7, also supported

transportation credits as a concept, but opposed increasing the handler assessment rate from 6 to 7 cents. Addressing the issue of the credit rate, and in response to a question asked earlier at the hearing, the witness stated that the 0.37 cent/mile rate should not be decreased as the distance hauled increases. He argued that this would not be appropriate because at times it is necessary to seek distant sources of available milk supplies. Finally, the witness testified that Mid-Am's proposal involving the 85-mile ineligibility requirement would discourage handlers from obtaining milk directly from producers' farms and thereby discourage greater efficiency and better quality milk.

Post-hearing briefs were filed by various interested parties. While changes to the current transportation credit provisions have been recommended throughout such briefs, the concept of transportation credits was not opposed by any of the submitting parties, with the exception of one handler recommending that the credits be eliminated from Order 11.

In its brief, Southern Belle, a handler regulated under Order 11, opposes any assessment on Class I producer milk for transportation credits in Order 11, reiterating its position following the initial hearing. Southern Belle restated the argument that many of its competitors are pooled under an order which does not require such assessment; therefore, the assessment places Southern Belle at a competitive disadvantage. Furthermore, such brief stated the current 6-cent assessment negatively impacts the Southern Belle's sales of bottled milk.

A brief submitted by Kraft Foods, Inc., stated that Kraft does not oppose transportation credits, but suggested that these provisions should be modified to equalize the costs of supplying fluid milk supplies to the Southeast. The brief stated that Kraft is at a disadvantage in procuring milk for Class II use because credits are available to those handlers with fluid milk plants which compete with Kraft in their ancillary Class II operations. Kraft also expressed concern over a net shipments provision and urged the Department to be cautious in its adoption of any such provision by having shipment limitations apply only when Class I milk (eligible for a transportation credit) received in any of the markets has replaced Class I milk (ineligible for a transportation credit) shipped out of the same market if the receiving plant is not within the 4-market area. Kraft's brief also reiterated its recommendation that the incentive and disincentives regarding transportation credits on supplemental plant milk versus supplemental producer milk should be equalized.

In its brief, Fleming Companies strongly supported the continuation of transportation credits, but stated that a few minor adjustments may be necessary. Fleming also restated its position that it opposes any increase in the handler assessment rate. Additionally, the brief stated that it is not inequitable for producers to share in the cost of the transportation credits since such cost provides services of marketwide benefit. As long as the contribution of handlers through assessments exceeds the amount of contribution by producers, then, according to Fleming, no increase in the assessment rate is justified.

Piedmont Milk Sales also submitted a post-hearing brief on behalf of the 277 dairy farmers who ship through Piedmont and regulated handlers, Land O'Sun, Inc., Hunter Farms, and Milkco, Inc. In its brief, Piedmont conceded that transportation credits are needed in the Southeast; however, Piedmont also recommended that certain changes are necessary regarding transportation credits in order to curtail abuse or potential abuse. According to Piedmont, several areas need to be modified, including: (1) Producer milk eligibility, (2) the January through June extension period for transportation credits, (3) the deduction of funds from the producer-settlement fund resulting in blend price reductions, and (4) the inclusion of a net shipment provision.

Piedmont suggests that credits have been given on milk which was imported for Class I use into the 4-market area, while at the same time milk was being shipped out of this area into Florida. Handlers and producers, it was stated, paid to bring in replacement milk from as far away as California when the milk could have been obtained from closer sources. Piedmont argued that the current transportation credits create an incentive to acquire milk on the basis of the generosity of the credits as opposed to the most efficient movement of milk.

Piedmont's brief also suggested that the market administrator's responsibility should be expanded to monitor transportation credit requests to determine whether milk that was imported was actually supplemental milk. The brief explains that the market administrator should be required to verify that the credits due a handler do not exceed the actual costs of hauling. In addition, Piedmont reiterated its request for a net shipment provision to ensure that shipments from these 4 markets to other order plants are not occurring simultaneously with the importation of supplemental milk to replace these exports.

In its brief, Piedmont also strongly opposed any reduction in the blend price of producers. A recommendation to prorate the available funds to be paid out to handlers was supported.

According to Piedmont, if the Department does not eliminate producer milk from being eligible for transportation credits, certain restrictions should be placed on it. While supporting the proposed amendment to assign producer milk to Class I in the same manner as transferred milk, Piedmont opposes the other proposed changes involving producer milk. Piedmont stated in its brief that when computing the transportation credit, such credit should be reduced by 125 miles and that it should also be reduced by an increment of 5% for each 100 miles over 250 miles. In addition, Piedmont supports a reduction in the credit rate of 0.37 cent per mile per hundredweight that is used in the calculation of the credits. The rate decided upon should ensure that handlers have an economic incentive to reduce the cost of transporting milk.

A brief submitted by CVMPA supports a continuation of transportation credits for the 4 markets, but also recommended that certain modifications be adopted to the current provisions. In its brief, CVMPA stated that the marketing situation which prompted the need for transportation credits in the Southeast has not changed, and any return to the pre-transportation credit situation would result in disorderly marketing and irreparable harm to producers in certain groups.

CVMPA stated that the credits available on supplemental producer milk should be comparable to credits available on other order plant milk. It suggests that one way of accomplishing this is to use the same marketwide Class I utilization percentage to determine the proportion of transferred milk and producer milk that is eligible for the credit. A second change supported by CVMPA involves the adjustment of the credit by the difference between the shipping point Class I price and the receiving plant Class I price whether it is a producer load or an other order plant transferred load. This will further equate the amount of credits available on supplemental producer milk versus supplemental plant milk.

In its brief, CVMPA restated its support of the reduction of the first 85 miles in computing the transportation credit. Such a reduction, CVMPA argued, would serve as a proxy for the

normal distance milk moves from farm to plant. This reduction is appropriate, according to CVMPA, because the producer should be responsible for the cost of farm-to-market hauling. This modification, it adds, will further equate credits on producer milk and plant milk.

CVMPA's brief supports the proposal to have a producer's milk ineligible for credits if the producer's farm is located within 85 miles of the plant receiving the milk, is within the 4 marketing areas, is within 85 miles of certain cities on the periphery of the 4-market area, or is located within certain states in the southeastern United States. CVMPA argued that expansion of the geographic area would tend to curtail the incentive to move milk uneconomically. CVMPA also refuted certain arguments brought up during the reopened hearing which maintained that such an expansion would result in the procurement of milk from further distances so that credits could be earned. This, CVMPA argued, is false logic.

Regarding the assessment rates, CVMPA argued in its brief that assessments should be raised to a level high enough to ensure that there will be no insufficiencies in the transportation credit balancing fund. No justification exists for reducing the blend price to producers, according to CVMPA; therefore, no deductions should be made from the producer-settlement fund. CVMPA's brief also stated that any other alternative, such as over-order pricing, will result in inequity or uncertainty.

Finally, CVMPA opposed the installation of a net shipment provision for reducing transportation credits received by a plant that also ships out Class II or Class III milk during the same month that transportation credits are received by such plant. In its brief, CVMPA argued that seasonal, monthly, and weekly balancing of customer needs is very important to a cooperative association such as itself. While some operators of supply plants have the ability to reshuffle supplies through the week and weekend to help with weekly balancing, cooperatives which do not have manufacturing plants lack such opportunity. According to CVMPA, it is untenable to reduce transportation credits on supplemental milk simply because a cooperative is balancing the daily and weekly need of distributing plants by diverting producer milk.

Mid-Am also submitted a post-hearing brief in support of the continuation of transportation credits under the 4 orders, but with the modifications summarized earlier. Mid-Am reiterated its support for a modification of the interim provisions that would ensure that credits given on producer milk are comparable to credits given on plant milk.

Mid-Am pointed out in its brief that if the proposed modifications to the interim amendments concerning credits on producer milk are adopted, the amount of credits paid out will be significantly reduced; therefore, for Orders 5, 11, and 46, the current assessment rate of 6 cents per hundredweight should be sufficient to cover the costs of credits due. However, Mid-Am stated that in order to prevent funds from being deducted from the producer-settlement fund, an increase of the assessment to 7 cents in Order 7 would be necessary. Mid-Am also reiterated its opposition to the adoption of a net shipment provision for reducing transportation credits. According to Mid-Am, no justification exists for the incorporation of such a provision. Milk Marketing Inc. also submitted a brief in support of the continuation of transportation credits.

MMI stated that it fully supports the positions of CVMPA and Mid-Am with respect to the modification of the interim amendments. According to MMI, the proposed modifications will result in the transportation credit provisions being administered in a more equitable and uniform manner.

A brief filed by AMPI also supported modifications of the current transportation credit provisions so that the credits available on producer milk are more comparable to the credits available on other order plant milk. According to AMPI, such modifications would result in the elimination of the transportation credit advantage of producer milk over plant milk which causes disorderly procurement activities by various handlers.

In its brief, AMPI opposes the modification proposed by Mid-AM and CVMPA that would render ineligible for credits that milk shipped from producers' farms located outside the 4 marketing areas, but within 85 miles of certain basing points. AMPI argues that such a restriction would result in the uneconomical movement of milk, thereby creating additional transportation costs in the Southeast.

AMPI's brief also recommends the inclusion of a net shipment provision to guard against abuse of the transportation credits by various handlers. AMPI's brief stated that it is unreasonable to base such a net shipment provision on monthly transfers and diversions; it suggested that netting shipments that occur within the same 24-hour period would be more appropriate.

Barber Pure Milk Company and Dairy Fresh Corporation also submitted a post-hearing brief opposing certain modifications of the current transportation credit provisions. Barber and Dairy Fresh stated that they are concerned over issues of inequity which may result from any changes to the current provisions.

In their brief, Barber and Dairy Fresh oppose any proposal to have credits on supplemental producer milk be contingent upon the lower of the marketwide Class I utilization or the Class I utilization of the receiving plant. By making the credits on producer milk and plant milk comparable, they argue, other inequities would be created. Additionally, they note that the proposed modifications, including the proposal to subtract 85 miles from the total farm-to-plant mileage, would encourage the importation of other order plant milk rather than producer milk, which is more efficient.

According to Barber and Dairy Fresh, the interim orders should remain as they are with respect to adjustments involving Class I prices applicable at the origination point and the receiving plant. Any modification to the current computation would not have sufficient justification, according to the commentors. Any change to the geographic area from which producers' milk is ineligible to receive credits was opposed by Barber and Dairy Fresh because restrictions would be placed on producer milk which would not apply to milk from other order plants.

In their brief, Barber and Dairy Fresh also opposed decreasing the amount of credits available as the distance increases. This, it was argued, would force the uneconomical movement of milk. Any increase in the assessment rate was opposed by the commentors also. They maintain that producers also must share some responsibility for supplying the Class I milk needs of the markets. Finally, Barber and Dairy Fresh suggest that a net shipment provision be incorporated in the orders to prevent milk from being brought into one order for the transportation credit, while simultaneously milk is being shipped by the same handler to another market. According to the commentors, the Florida markets are benefiting from the transportation credit provisions at the expense of the 4 southeastern markets.

Gold Star Dairy also submitted a post-hearing brief opposing any assessments on Class I prices in order to fund transportation credits under Order 7 and maintains its position as stated in its brief following the May 1996 hearing. Gold Star Dairy also opposes any modifications of the orders regarding

the interim amendments claiming that proper notice had not been given.

Select Milk Producers, Inc., submitted a brief in support of the continuation of transportation credits without modification. In addition to reiterating its position from an earlier brief submitted after the May 1996 hearing, Select stated that proposals to limit transportation credits based on distance would result in an inequitable situation by placing the burden of transporting milk from further distances on cooperatives servicing the southeast markets. Additionally, Select maintained that the small reduction in producer pay prices resulting from the credits will end once the funds in the transportation credit balancing funds are built up; therefore, these past reductions do not justify changing the current provisions. Select also argued that proper notice had not been given to interested parties prior to the reopened hearing.

A brief was also filed by a producer from Tennessee who expressed concern that transportation credits place southeastern producers at a competitive disadvantage. In his brief, he also questioned why southeast producers have been paying to have distant milk hauled into their markets.

Conclusion

Testimony and exhibits introduced at both sessions of the hearing indicate that the Southeastern United States has a chronic shortage of milk for fluid use in the summer and fall months, which often extends into the winter months. This shortage has been worsening over time as milk production has declined and population has increased. This trend is likely to continue, exacerbating the problem of obtaining a sufficient supply of milk for fluid use in an orderly and equitable manner.

Under the arrangements that existed in these markets prior to the adoption of the interim amendments, the costs of obtaining an increasing supply of supplemental milk were not being borne equally by all handlers and producers in each of the 4 orders. The record indicates that disorderly marketing conditions existed because of the significantly different costs that were incurred by handlers who provide the additional service versus those who do not. It also indicates that the disproportionate sharing of costs was jeopardizing the delivery of adequate supplies of milk for fluid use. Thus, based upon the record of the first session of the hearing in these matters, interim amendments were adopted to restore stability and order in providing adequate supplies of milk for fluid use. The reasons for adopting the interim amendments were thoroughly explained in the tentative decision and the provisions that were adopted have been summarized above. Therefore, the discussion that follows will not reiterate the reasons for adopting the interim amendments, but instead will focus on the reasons for changing them based upon the new information presented at the December hearing.

The interim amendments provided for transportation credits during the months of July through December and included all of the months of January through June in a "discretionary transportation credit period." Under those provisions, a handler may request that transportation credits be extended to any of the months of January through June by filing such a request with the market administrator 15 days prior to the beginning of the month for which the request is made. After providing notice of such a request to interested parties and conducting an independent study of the situation, the market administrator has the ultimate authority to grant or deny the request but must notify handlers of the decision by the first day of the month. The complete procedure to be followed is described in § 100X.82(b) of the order language.

This final decision changes the discretionary period from the months of January through June to January and June only. Outside of the July through December period, January and June are likely to be the months when these markets are most in need of supplemental milk for fluid use. Class I utilization generally begins to drop in February and milk supplies are usually adequate for fluid use until June.

The reasons for changing these discretionary months are twofold. First, including all of the months of January through June in the discretionary period could result in a situation where transportation credits are provided on nearly a year-round basis. Were this to happen, it would destroy the concept of a supplemental producer because a dairy farmer conceivably could be shipping milk to one of these markets on a year-round basis. Moreover, under the provisions provided in this decision, if a dairy farmer were to supply milk for more than 2 months of the January through June period, the producer's milk would be ineligible for transportation credits beginning in July. Hence, these provisions would be in conflict with each other. A second reason for restricting the discretionary period to January and June is to give the transportation credit balancing fund a chance to build up so that funds will be available when the markets are most in need of supplemental milk starting in July.

The interim amendments provided for a transfer of funds from the producer-settlement fund to the transportation credit balancing fund when the latter fund had an insufficient balance to pay the month's transportation credits. When this provision was adopted, it was assumed that it would only be needed for the first year that these provisions were in effect and that, thereafter, the transportation credit balancing fund would maintain a sufficient balance to preclude such a transfer of funds. Experience has indicated otherwise, particularly with respect to the Southeast and Carolina markets. Data introduced by the market administrators' offices show that all 4 orders had an insufficient balance in the transportation credit balancing fund during every month that transportation credits have been in effect, with the exception of Order 46 in November 1996. The data also show that the transfer of funds from the producer-settlement fund to the transportation credit balancing fund reduced blend prices to producers by varying amounts during the 4-month period of August through November 1996, ranging from 1 cent for Order 46 to as much as 21 cents in October for Order 7.

To cope with the milk shortage of the past year, action had to be taken to provide handlers with adequate milk supplies to meet their fluid needs as equitably as possible. Since the transportation credit provisions did not become effective until August 10, 1996, there was no opportunity to accumulate funds with which to pay all of the transportation credits. Therefore, as a short-term measure, provision was made for taking funds from the producer-settlement fund. The logic behind this provision was that if transportation credits could not be paid fully from funds collected from handlers, the next best alternative was to have all of a market's producers contribute to making up the difference; otherwise, certain producers (i.e., members of cooperative associations) would bear a disproportionate share of the cost of bringing in supplemental milk.

Based on the experience with transportation credits during the past 4 months, it can be concluded with some certainty that, under present conditions, the transportation credit balancing fund of Orders 5 and 7 would contain insufficient funds to pay for all of the transportation credits that are likely to be accrued during the months of July through December 1997 and that, based upon the current 6-cent assessment rate, funds would have to be transferred from

the producer-settlement fund to the transportation credit balancing fund by fall 1997 if these provisions remain unchanged.

We agree with the proponents of transportation credits that the cost of bringing supplemental milk to a market generally should be shared among all of a market's handlers. However, from the data for the last 4 months, it can now be concluded with reasonable certainty that to fully cover handlers' costs for the Southeast and Carolina markets under the present provisions, the assessment rate would have to be raised significantly. A better approach, we believe, is to address the revenue problem from both ends: slightly increase revenue, but more significantly reduce payouts. This would ensure that only necessary imports are made, and would encourage the most cost effective methods of procurement. At the same time, it would provide handlers with significant, if not total, recoupment of costs.

In particular, based upon the record of this hearing and the experience with transportation credits during the months of August through November 1996, several changes should be made to the transportation credit provisions to correct certain problems that have become evident.

First, the transfer of funds from the producer-settlement fund to the transportation credit balancing fund should be eliminated. This temporary measure is no longer needed. Transportation credits should be paid out each month to the extent possible from the available funds in the transportation credit balancing fund. If the credits exceed the balance in the transportation credit balancing fund, the available funds should be prorated to handlers based upon the transportation credits that are due to each handler.

Second, the per mile transportation credit rate should be reduced to 0.35 cent per hundredweight per mile from the present level of 0.37 cent. This reduction is consistent with the testimony of several witnesses who warned during the course of the hearings that it is better to under-compensate handlers for supplemental milk costs rather than overcompensate them. In this way, handlers will only import milk that is truly needed because their costs may not be fully covered. This argument makes sense and, in view of the need to conserve funds, this suggestion should be adopted.

Third, the proposal by Mid-Am to exclude 85 miles from the mileage when computing credits for supplemental producer milk should be adopted. Mid-Am is correct in arguing that producers should be expected to bear their normal farm to plant hauling cost, and the 85-mile figure proposed appears to be a reasonable approximation of the distance used in computing such cost. This modification will also help significantly to reduce transportation credits.

Fourth, certain changes should be made in the proportion of supplemental producer milk eligible for transportation credits and in the formula for computing those credits. These changes are explained below.

Finally, the maximum assessment for the transportation credit balancing fund should be increased slightly for Orders 5 and 7. It is likely that, even with the changes adopted above and others yet-to-be discussed, there will be a shortfall in funds to pay for all of the projected transportation credits if production patterns continue as they have for the past 3 years. A modest rate increase will help narrow this gap. Therefore, the maximum assessment rate for Order 5 should be increased to 6.5 cents per hundredweight of Class I producer milk and the rate for Order 7 should be increased to 7 cents per hundredweight. The rate should remain at 6 cents per hundredweight for Orders 11 and 46, however.

This modest increase in the assessment rates for Orders 5 and 7 will help to avoid having to prorate available funds to handlers in these markets. It should be kept in mind that this rate is the maximum rate that can be charged. If production increases and/or supplemental milk imports decrease and less money is needed for the transportation credit balancing fund, these changes will trigger an automatic reduction in this assessment.

The current 6-cent assessment for Orders 11 and 46 is likely to meet all of the anticipated transportation credits for 1997. In fact, by the first half of 1998 it may be possible to maintain a sufficient balance in the transportation credit balancing fund with a rate below 6 cents per hundredweight for these 2 markets.

In conjunction with the limit on the disbursement of transportation credits, as explained above, a new procedure should be implemented for receiving the required information, computing the credits to be disbursed, and making final settlement for appropriate adjustments.

Experience with the transportation credit provisions during the months of August through December 1996 has demonstrated a handler/cooperative association problem in getting complete and accurate transportation credit documents to the market administrator by the 7th day of the month, when such information must be received for purposes of computing the uniform price. Because of difficulties in obtaining timely information, the market administrators have accepted late submissions of supplementary information.

Now that the possibility exists that transportation credits may have to be disbursed on a prorata basis, fixing the time for the final submission of requests and for final payment based upon such requests is even more of a necessity. If the submission of supplemental information were left open-ended, the procedure for prorating credits could get hopelessly complicated with endless recalculations based on tardy information. Therefore, the procedure should be clear, reasonable, and unalterable once in place.

When the market administrator receives handlers' reports of receipts and utilization by the 7th day of the month, the market administrator will determine whether there are sufficient funds in the transportation credit balancing fund to cover the requests for transportation credits. If there is not a sufficient balance, the market administrator will compute a preliminary proration percentage by dividing the balance in the fund by the total amount of transportation credits requested. The prorated credits so computed will be disbursed along with any payments from the producer-settlement fund on or before the 13th day of the month with respect to Orders 5, 7, and 11 (16th day of the month in the case of Order 46).

Handlers will be given the opportunity to correct and file complete documentation of their initial transportation credit requests for the preceding month by filing updated information with the market administrator by the 20th day of the month. After such date, the market administrator will conduct a preliminary audit of the requests and will then compute a final proration percentage based upon the revised numbers. Handlers then will be notified of any additional credits due them or of any payments due from them and such payments will be completed the following month when payments are next due.

At the May 1996 hearing, Mid-Am proposed permitting transportation credits for bulk transfers of milk for Class I use from any other order plants. The interim amendments restricted such transfers to plants regulated under Federal orders other than Orders 5, 7, 11, and 46. The reason for excluding plants under these 4 orders from transportation credits was to avoid

potential abuses from undue movements of milk among the orders to take advantage of transportation credits. In particular, handlers were concerned that milk could be stair-stepped from Order 46 to Order 7, for example, thereby creating a shortage of milk in Order 46. Order 46 handlers then would have to import replacement milk, and their assessments for transportation credits would be used to cover transportation costs for such replacement milk when, some argued, Order 7 handlers should have borne the full cost of importing milk from the ultimate source. At the reopened hearing, there were no problems mentioned in connection with the provisions applicable to plant transfers, except for concern that milk could be moved or stair-stepped among orders to obtain credits. As a result, the provisions that prohibit credits to receipts of transferred milk among the four orders should remain unchanged in the final amendments.

Currently, producer milk is eligible to receive transportation credits as discussed above. At the reopened hearing, there was no testimony suggesting that transportation credits be eliminated for producer milk. In fact, the available data shows that during the months of August through November 1996 far more supplemental milk was received directly from producers' farms than from other order plants. Several suggestions were made concerning how to compute such credits in a more equitable and efficient manner. Since most of these suggestions have merit, modifications to the interim amendments involving producer milk are provided.

The thrust of the testimony was that the present method for computing transportation credits for producer milk resulted in an overly generous credit as compared to the method used for plant milk and, therefore, provided an artificial incentive to receive producer milk directly from farms rather than milk transferred from an other order plant. The testimony, as summarized earlier, was quite convincing, with the exception of Mid-Am's proposal to exclude the milk of a producer who is within 85 miles of the perimeter of any of the 4 marketing areas from transportation credit eligibility. Such proposal should not be adopted.

In the interim amendments, producer milk was not eligible for a transportation credit if the producer's farm was located within one of the 4 marketing areas or if the farm was within 85 miles of the plant to which milk from the farm was delivered. The tentative decision concluded that it was "reasonable to conclude that the markets" regular producers are located reasonably close to the plants receiving their milk. Thus, such producers' farms are likely to be within the geographic marketing areas defined in each order."

At the reopened hearing, Mid-Am proposed expanding this restriction to include producers whose farms are: (a) Within the States of Florida, Georgia, Alabama, Louisiana, Mississippi, Arkansas, Tennessee, South Carolina, North Carolina, or Kentucky; or (b) within 85 miles of the City Hall in the nearer of Lake Charles or Shreveport, Louisiana; Little Rock, Arkansas; Evansville, Indiana; Fulton, Louisville, or Lexington, Kentucky; Bristol, Tennessee; or Reidsville, or Roanoke Rapids, North Carolina.

Mid-Am's 10-state exclusion area would randomly exclude many counties in Arkansas and Kentucky that are outside of any of the 4 marketing areas and should not be adopted. It would be difficult to justify the exclusion of a county from transportation credits simply because of its location within a particular state. For example, under the Mid-Am proposal, many counties in northwest Arkansas and northeast Kentucky would be excluded from transportation credits. These counties may or may not be part of the regular supply for the 4 markets. By randomly excluding all territory within a state, certain counties outside of the 4 marketing areas may be unfairly excluded. The exclusion of territory from transportation credits should be based upon whether that territory is a regular source of supply for the markets involved in this proceeding. It must be noted, however, that simply because a county is within one of the 4 marketing areas does not necessarily make it a regular source of supply for these 4 markets. By the same token, simply because a county is just outside these marketing areas does not mean it is not a regular source of supply either. However, it is reasonable and appropriate to use such marketing area boundaries to define the exclusionary area since it is apparent that most of the producers located within these areas supply plants regulated under these orders. Furthermore, other performance measures are used to distinguish between producers who are or who are not regular suppliers of these markets. Thus, the exclusionary area need not be overly restrictive as proposed by Mid-Am.

The interim amendments excluded the area within the 4 marketing areas from transportation credits. However, the use of the marketing area definition failed to exclude several unregulated counties within the State of Kentucky where producers are located and who could qualify for transportation credits. These counties are completely encircled by the Order 7 and Order 46 marketing areas and are an integral part of the milk supply for those 2 markets. There can be no doubt that these counties— Allen, Barren, Metcalfe, Monroe, Simpson, and Warren—clearly should be part of the area excluded from transportation credits because the surrounding markets are clearly the regular outlets for this milk. Accordingly, the order language should be modified to include these 6 counties in § 100X.82(c)(2)(iii).

The proposal of Mid-Am to exclude the territory within 85 miles of the cities mentioned above should not be adopted. This proposal would exclude many producers who are located in counties adjacent to the 4 marketing areas. These producers may, for the most part, be regular suppliers of other markets. For example, there may be dairy farmers in East Texas who are within 85 miles of Lake Charles or Shreveport, Louisiana, from whose farms milk is delivered on a supplemental basis to other plants within the Southeast market that may be hundreds of miles away. It would make no sense to exclude these farms from transportation credits and thereby force cooperative associations and plant operators to bring in supplemental milk from even farther distances when this closer milk is available.

Not all of the pool distributing plants regulated under these orders are located within the 10-state area specified above. For example, a pool distributing plant regulated under Order 5 is located in Lynchburg, Virginia. The interim amendments dealt with this problem by specifying that a farm had to be more than 85 miles from the plant to be eligible for a transportation credit. This provision was based upon a suggestion made by MMI at the May 1996 hearing restricting supplemental producers to those who are more than 85 miles from Louisville or Lexington, Kentucky, or Evansville, Indiana.

As explained above, the amendments provided in this decision would subtract 85 miles from the transportation credit computation for producer milk. In view of this adjustment, it is no longer necessary to specify that a producer must be more than 85 miles from the plant because a transportation credit would not be given for that distance anyway. In effect, the origination point for producer milk has to be at least 85 miles from the plant of receipt before milk from that point would receive a transportation credit. Thus, the language now contained in § 100X.82(c)(2)(ii) of the interim

amendments referring to 85 miles has not been carried forward to the comparable revised paragraph, § 100X.82(c)(2)(iii), of the attached final amendments.

Mid-Am also proposed certain changes to the way transportation credits are computed for producer milk. As provided in the interim amendments, all producer milk classified as Class I milk is eligible for the credit. At present, the proportion of such milk that receives a Class I classification is approximately equal to the utilization of the plant receiving the milk. Receipts of transferred milk from other order plants, on the other hand, are allocated to Class I based upon the lower of the receiving handler's Class I utilization or the marketwide Class I utilization. This difference in classifying supplemental milk, according to Mid-Am, has provided an incentive for a high Class I utilization handler to receive supplemental producer milk rather than supplemental milk transferred from an other order plant in order to receive credits on a greater proportion of the supplemental milk.

To correct this bias, Mid-Am proposed that supplemental milk from producers should be assigned to Class I in the same proportion as other order supplemental milk to determine the proportion of such milk that is eligible for the transportation credit. This modification should be adopted. Supplemental producer milk should be assigned to Class I, for transportation credit purposes, by adding a paragraph—(c)(2)(i)—to Section 82 ("Payments from the transportation credit balancing fund"). This new paragraph states that the quantity of producer milk that is eligible for the transportation credit shall be determined by multiplying the total pounds of supplemental producer milk received at the plant by the lower of the marketwide Class I utilization of all handlers for the month or the Class I utilization of the pool plant operator receiving the milk after all of the handler's receipts have been allocated to classes of utilization in Section 44 of the respective order.

Another change that should be made to the transportation credit for producer milk has to do with the way the gross credit is adjusted by the difference in Class I price at the receiving plant and the origination point for the load of milk. At the present time, even though a farm and an other order plant may be identically located in another order's marketing area, there may be a difference in the transportation credit that would apply to milk coming from those identically-located points under the provisions of Orders 5, 11, and 46. The Class I price, adjusted for location, under Orders 5, 11, and 46, applicable to a plant in the marketing area of some other order is not necessarily the same as the Class I price, adjusted for location, applicable to that plant pursuant to the provisions of that other order. For example, the Class I price to any plant under the Eastern Ohio-Western Pennsylvania order is $2.00 plus the basic formula price under the provisions of the Eastern Ohio-Western Pennsylvania order, but the Class I price that would apply to a plant located in the Eastern Ohio-Western Pennsylvania marketing area under the provisions of the Carolina order would be based upon mileage from specified basing points in North Carolina; it could be greater or less than $2.00 plus the basic formula price. Under the Southeast order, by contrast, the Class I price applicable to a plant that is located in the marketing area of some other order is the Class I price that would apply to that plant under the provisions of the order covering that marketing area. Therefore, under the Southeast order the transportation credit for a plant or farm identically located in another Federal order marketing area is the same, but for Orders 5, 11, and 46 it may not be.

In computing transportation credits for plant milk, the gross credit (i.e., the mileage times 0.35 cent) is adjusted by subtracting the Class I price applicable to the plant under the other order from the Class I price applicable to the plant receiving the milk. For producer milk, however, the gross credit is adjusted by subtracting this order's Class I price at the origination point from this order's Class I price at the receiving plant. As a result, there could be a difference in the transportation credit applicable to plant milk versus producer milk, even though the plant and farm are adjacent to each other.

This can and should be corrected for plants and farms located in Federal order marketing areas by changing the way the credit is computed for producer milk. The adjustment to the gross credit for producer milk should be computed as if the origination point for the producer milk were a plant location. Specifically, if the origination point is in another order's marketing area, the other order Class I price applicable at the origination point should be subtracted from the receiving order's Class I price at the receiving plant. This change is provided in § 100X.82(d)(3)(v) of the order language.

A complication arises in the case of an origination point that is not located within any Federal order marketing area. While the other order Class I price that would apply to an other order plant that is located in unregulated territory is known, the same cannot be said for a farm location (i.e., an origination point for a load of supplemental producer milk). In view of this uncertainty, the most reasonable treatment for such milk is to price it under the provisions of the order receiving the milk. For example, if an Order 5 plant in Raleigh, North Carolina, received supplemental producer milk from a farm in an unregulated county in central Pennsylvania, the gross transportation credit for that load of milk would be adjusted by subtracting from the credit the difference between the Order 5 Class I price at the Pennsylvania origination point and the Order 5 Class I price at Raleigh.

Another issue, not addressed at the hearing, must be discussed. It is possible that milk may be transferred from an other order plant that is located in one Federal order marketing area but is regulated under a different order. For example, a plant may be located in the Eastern Ohio-Western Pennsylvania marketing area but may be regulated under the Ohio Valley order. In such a case, a question may arise concerning which order's Class I price to use in computing the transportation credit. In this situation, the market administrator should use the Class I price that applies at that plant under the order in which the plant is regulated. Thus, in the example given, the Class I price at the plant would be the applicable Class I price under the Ohio Valley order. This treatment will ensure that the transportation credit properly reflects the difference in the Class I prices applicable to the shipping handler and the receiving handler.

In addition to considering the geographic location of a dairy farm for the purpose of determining whether milk from that farm is supplemental to a market's needs, attention should be focused on whether milk from that farm is regularly associated with the market or is shipped to the market as needed.

Since the need for supplemental milk generally drops off sharply after the month of December or January in all of these markets and does not reappear, usually, until the month of July, it is reasonable to conclude that the milk of a producer who is located outside of the exclusionary areas (the 4 subject marketing areas or the 6 Kentucky counties mentioned above) generally would not be needed during the months of January through June, but might be needed starting in July. It is also logical that the milk of a supplemental producer would not be needed each day but perhaps once or twice a week.

Accordingly, if a dairy farmer was a regular supplier of the market during January through June—i.e., a "producer" on the market for more than 2 of those months—the milk of such a dairy farmer should not be considered supplemental milk during the following months of July through December.

It would be unduly restrictive to disqualify a dairy farmer for shipping a limited amount of milk during one or two months of the January through June period, however, because even the months of January and June can be short months in the Southeast, and, in fact, these 2 months can be included in the transportation credit period. Therefore, the provision should be flexible enough to accommodate some shipments to the market during the January through June period. Specifically, a dairy farmer should not lose status as a supplemental producer if milk is shipped to a market for not more than 2 months of the January through June period. However, shipments during this period should be of a limited duration. Therefore, not more than 50 percent of the dairy farmer's production may be received as producer milk, in aggregate, during the 2 months of the January through June period in which the dairy farmer was a producer on the market. In addition, if January and/or June are months in which transportation credits are extended, those months should not be included in the 2-month limit for a supplemental producer. The transportation credits would not be extended to January or June if milk were not needed during those months, and it would be counterproductive to penalize a producer for responding to that need. Therefore, if January and June are part of the transportation credit period, a dairy farmer may be a producer during those months and, in addition, may be a producer during 2 of the months of February through May provided that the dairy farmer's producer milk during those additional 2 months did not exceed the 50 percent limit.

The interim amendments provided that 32 days' production of a dairy farmer could be delivered during January through June before the dairy farmer would lose status as a supplemental producer. This has been changed to "50 percent of the dairy farmer's production" to simplify reporting and administration of this provision.

The provisions in the interim amendments prescribing the determination of an origination point for a load of supplemental producer milk are continued in this final decision. No problems were noted with this provision and no suggestions were made for changing it at the reopened hearing or in the post-hearing briefs. The 2 alternatives provided for determining a supplemental producer milk origination point are contained in § 100X.82(d)(3)(i).

As noted earlier, there was a great deal of concern expressed at both sessions of the hearing about "stair-stepping" milk from one market to another. Suggestions were made at both sessions of the hearing to adopt a net shipment provision to offset transfers from a pool plant to other order plants against supplemental milk brought into the pool plant within a specified period of time.

This issue can be quite complex, particularly in large markets, such as the Southeast market. It may very well make economic sense to ship surplus milk from one part of a market (for example, southern Louisiana in the Order 7 marketing area) to another market that is short of milk (for example, the Florida markets) at the same time that bulk milk is imported for a handler in another part of the Order 7 marketing area (for example, a handler in Nashville). Also, it is entirely possible that milk may be needed at the beginning of a month, while by the end of the month milk must be exported out of the market for surplus disposal. Finally, since fluid milk processors have different bottling needs, extra milk may be needed on certain days but not on other days within the same week.

In response to concerns expressed at both sessions of the hearing, the 4 orders should contain a net shipment provision to prevent the type of abuses feared by proponents of such a provision. However, in view of the varying circumstances surrounding the fluid needs of these markets, the provision should be flexible enough to accommodate these varying needs. To be effective, the net shipment provision should apply to all supplemental milk received, either by transfer or directly from producers' farms as producer milk.

In applying the net shipment provision, bulk transfers to nonpool plants that were made on the same day that supplemental milk was received at a pool plant should be subtracted from the total receipts of supplemental milk for which the pool plant operator or cooperative association is requesting a credit. In reducing the supplemental milk eligible for the credit pursuant to this net shipment provision, the market administrator should first subtract the loads of milk that were most distant from the plant and then continue in sequence with less distant loads. This procedure, which is described in § 100X.82(d)(1) of the orders, will minimize the depletion of funds from the transportation credit balancing fund resulting from unwarranted receipts of supplemental milk.

The net shipment provision will require accurate accounting and reporting on the part of handlers. Specifically, each pool plant operator applying for transportation credits will be required to maintain accurate accounting records of daily transfers of bulk milk from the plant to nonpool plants. This is provided in § 100X.30(a)(7) of the order language for Orders 5, 7, and 46, and § 100X.30(a)(8) for Order 11.

Although specific proposals were made to net outgoing shipments from incoming shipments within a 24-hour period, this suggestion could prove to be tedious for handlers, as well as for the market administrator. Therefore, the attached amendments provide for netting based on receipts and shipments occurring the same calendar day.

The diversion of producer milk to a nonpool plant was not addressed at great length at either session of the hearing, although AMPI did state in its brief that diversions to nonpool plants should also be included in a net shipment provision.

It is certainly a fact that milk is diverted from pool plants in these 4 markets to nonpool plants for Class II and Class III use. Each pool plant operator has a regular supply of producer milk for its Class I needs and that milk should be utilized to the full extent before importing supplemental milk. While diversions could have been incorporated into the net shipment provision, as suggested by AMPI, there would be numerous obstacles to overcome in doing so. Therefore, we concluded, on balance, that any possible benefit of including diverted milk would be outweighed by the problems caused by such a complicated provision.

To illustrate one type of problem, for example, not all supplemental milk may be needed at a pool plant every day; some days it may be diverted to a nonpool plant close to the farm where produced and hundreds of miles away from the pool plant where it is received on a supplemental basis some of the time. If diversions were included in the net shipment provision, the milk that is not needed—i.e., it is diverted to a nonpool plant—would have to be subtracted from the supplemental milk that was needed that day, which could result in the handler getting no transportation credit for supplemental milk received on that day. While a provision undoubtedly could be written to distinguish "regular" or "close-in" producer milk that is diverted from

"supplemental" or "distant" producer milk in an attempt to overcome these problems, it would likely be a very cumbersome provision. If, at some point, it becomes obvious that handlers are diverting local milk for manufacturing use while importing supplemental milk for Class I use within the same 24-hour period, appropriate action should be taken to stop this abuse of the transportation credit provisions. In the meantime, however, handlers should be given as much freedom as possible to move milk according to their needs.

At the reopened hearing, Mid-Am proposed an amendment to that section of the orders dealing with overdue accounts. Specifically, it proposed adding overdue payments to the transportation credit balancing fund in the list of late payments to which a late payment charge would apply.

This proposal should be adopted. Although handler compliance with the transportation credit balancing fund assessment has been excellent thus far, it is possible that late payments may occur in the future. Were this to happen, one handler could gain an advantage over competing handlers by using money that should have been paid to the market administrator. To discourage this from happening, and to rectify the situation when it does happen, a late payment charge should apply to delinquent payments to the transportation credit balancing fund.

A conforming change should be made in Order 46 with respect to the payment of assessments for the transportation credit balancing fund and the payment of transportation credits to handlers. In the interim amendments, assessments for the transportation credit balancing fund were uniformly due on the 13th day of the month for all 4 orders and, similarly, payment of transportation credits to handlers was uniformly set at the 12th day of the month for all 4 orders. However, Order 46 differs from the other 3 orders with respect to payments to and from the producer-settlement fund. Under Order 46, payments to the producer-settlement fund are due on the 15th day of the month and payments from the producer-settlement fund are due on the 16th day of the month. For the other 3 orders, however, payments into the producer-settlement fund must be made by the 12th day of the month and payments out of the producer-settlement fund must be made by the 13th day of the month. To facilitate the payments of transportation credit assessments and payouts under Order 46, the dates in §§ 1046.81(a) and 1046.82(a) should be changed from the 12th and 13th, respectively, to the 15th and 16th, respectively, to coincide with payments in and out of the producer-settlement fund for that order.

A conforming change also should be made in § 100X.81 with respect to how the assessment for the transportation credit balancing fund is to be determined. In the interim amendments, the standard used for determining how much the handler assessment would be each month was based upon the credits disbursed during the preceding July through December period or during the immediately preceding 6-month period. This paragraph was worded that way because transportation credits theoretically could have been in effect every month of the year. However, as modified in this final decision, transportation credits can only be effective during the months of June through January and the months of June and January are subject to a finding by the market administrator that supplemental milk is needed for fluid use.

In view of the change in months for which transportation credits may be effective, it is also appropriate to change the benchmark for determining the level of such assessments. Specifically, § 100X.81(a) should be modified to read "the total transportation credits disbursed during the prior June–January period." However, in the event that the funds disbursed are prorated based on the available funds, the assessment should be based upon the total amount of credits that would have been disbursed as determined by the market administrator. Although the yardstick for the balance in the fund can now be raised to 8 months instead of 6, this change is necessary to maintain a balance in the transportation credit balancing fund that is sufficient to cover the transportation credits to be disbursed in the following short production period. In other words, if the months of January and/or June were included in the prior transportation credit period, the amount of credits given during these months should also be included in the calculation of the assessment rates for the 4 orders.

Section 100X.77, adjustment of accounts, of the Carolina, Tennessee Valley, and Louisville-Lexington-Evansville orders should also be amended to conform with the changes adopted above. Presently, the orders lack any instruction pertaining to the adjustment of accounts in the event that an error has been made either involving payments into the transportation credit balancing fund by handlers or payments to handlers by the market administrator from such fund. Therefore, it is necessary to include such language in section 100X.77 of these 3 orders to avoid any ambiguity concerning these matters. In particular, transportation credit balancing fund adjustments should be handled in the same manner as adjustments to the producer-settlement fund, except that additional transportation credits due handlers should be made as soon as transportation credit funds become available and not necessarily within 15 days of the time that this adjustment is discovered. A similar conforming change is not necessary for the Southeast order because the language contained in § 1007.77 of that order is general enough to accommodate adjustments related to the transportation credit balancing fund.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the tentative marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, ensure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreements and the orders, as hereby

proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held; and

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreements and the orders as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

Marketing Agreement and Order

Annexed hereto and made a part hereof is an Order amending the orders regulating the handling of milk in the Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville marketing areas, which has been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. A marketing agreement that reflects the attached order verbatim is available upon request from the market administrator.

It is hereby ordered that this entire decision and the order amending the orders be published in the **Federal Register**.

Determination of Producer Approval and Representative Period

February 1997 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid marketing areas is approved or favored by producers, as defined under the terms of the individual orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

It is hereby directed that a referendum be conducted to ascertain producer approval in the Louisville-Lexington-Evansville marketing area. The referendum must be conducted and completed on or before the 30th day from the date that this decision is issued in accordance with the procedure for the conduct of referenda (7 CFR 900.300–311), to determine whether the issuance of the attached order as amended, and as hereby proposed to be amended, regulating the handling of milk in the Louisville-Lexington-Evansville marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the marketing area.

The agent of the Secretary to conduct such referendum is hereby designated to be Arnold M. Stallings.

List of Subjects in 7 CFR Parts 1005, 1007, 1011, and 1046

Milk marketing orders.

Dated: May 12, 1997.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

Order Amending the Orders Regulating the Handling of Milk in the Carolina, Southeast, Tennessee Valley, and Louisville-Lexington-Evansville Marketing Areas

This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas. The minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, ensure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said orders, as hereby amended, regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held; and

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

Order Relative to Handling

It is therefore Ordered, that on and after the effective date hereof, the handling of milk in each of the specified orders' marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended.

Accordingly, the interim rule amending 7 CFR Parts 1005, 1007, 1011, and 1046, which was published at 61 FR 41488 on August 9, 1996, is adopted as a proposed rule with the following changes:

1. The authority citation for 7 CFR parts 1005, 1007, 1011, and 1046 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 1005—MILK IN THE CAROLINA MARKETING AREA

§ 1005.30 [Amended]

2. In § 1005.30, paragraphs (a)(7) and (a)(8) are redesignated, respectively, as paragraphs (a)(8) and (a)(9), new paragraph (a)(7) is added, and paragraphs (a)(5), (a)(6), and (c)(3) are revised to read as follows:

§ 1005.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Orders 1007, 1011, and 1046, for which a transportation credit is requested pursuant to § 1005.82, including the date that such milk was received;

(6) Receipts of producer milk described in § 1005.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

* * * * *

(c) * * *

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1005.82, all of the information required in paragraphs (a)(5), (a)(6), and (a)(7) of this section.

* * * * *

§ 1005.32 [Amended]

3. In § 1005.32, a new paragraph (a) is added to read as follows:

§ 1005.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1005.9(a), (b), and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1005.30(a)(5), (6), and (7).

* * * * *

§ 1005.61 [Amended]

4. In § 1005.61, paragraph (a)(4) is removed and paragraphs (a)(5) and (a)(6) are redesignated as paragraphs (a)(4) and (a)(5), respectively.

§ 1005.77 [Amended]

5. § 1005.77 is revised to read as follows:

§ 1005.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1005.71 or to the transportation credit balancing fund pursuant to § 1005.81, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1005.72 or § 1005.82, the market administrator shall make payment to such handler within 15 days or, in the case of the transportation credit balancing fund, as soon as funds become available. If a handler is due additional payment for a month in which payments to handlers were prorated pursuant to § 1005.82(a), the additional payment pursuant to this section shall be multiplied by the final proration percentage computed in § 1005.82(a)(2).

(b) Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1005.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1005.78 [Amended]

6. In the introductory text of § 1005.78, the number "1005.81," is added following the number "1005.77,".

§ 1005.81 [Amended]

7. In § 1005.81, paragraph (c) is removed and paragraphs (a) and (b) are revised to read as follows:

§ 1005.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler operating a pool plant and each handler specified in § 1005.9(b) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1005.44 by $0.065 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June-January period. In the event that during any month of the June-January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1005.82 [Amended]

8. § 1005.82 is revised to read as follows:

§ 1005.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1005.30(a)(5), bulk milk transferred from an other order plant as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1005.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1005.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraph (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1005.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1005.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for

which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1007, 1011, and 1046, and allocated to Class I milk pursuant to § 1005.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1005.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1005.44;

(ii) The dairy farmer was not a "producer" under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing areas of Federal Orders 1007, 1011, or 1046, or within the Kentucky counties of Allen, Barren, Metcalfe, Monroe, Simpson, and Warren.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1005.53;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

PART 1007—MILK IN THE SOUTHEAST MARKETING AREA

§ 1007.30 [Amended]

9. In § 1007.30, paragraphs (a)(7) and (a)(8) are redesignated, respectively, as paragraphs (a)(8) and (a)(9), new paragraph (a)(7) is added, and paragraphs (a)(5), (a)(6), and (c)(3) are revised to read as follows:

§ 1007.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Orders 1005, 1011, and 1046, for which a transportation credit is requested pursuant to § 1007.82, including the date that such milk was received;

(6) Receipts of producer milk described in § 1007.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

* * * * *

(c) * * *

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1007.82, all of the information required in paragraphs (a)(5), (a)(6), and (a)(7) of this section.

* * * * *

§ 1007.32 [Amended]

10. In § 1007.32, a new paragraph (a) is added to read as follows:

§ 1007.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1007.9 (a), (b), and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1007.30 (a)(5), (6), and (7).

* * * * *

§ 1007.61 [Amended]

11. In § 1007.61, paragraph (a)(4) is removed and paragraphs (a)(5) and (a)(6) are redesignated as paragraphs (a)(4) and (a)(5), respectively.

§ 1007.78 [Amended]

12. In the introductory text of § 1007.78, the number "1007.81," is added following the number "1007.78,".

§ 1007.81 [Amended]

13. In § 1007.81, paragraph (c) is removed and paragraphs (a) and (b) are revised to read as follows:

§ 1007.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler operating a pool plant and each handler specified in § 1007.9 (b) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1007.44 by $0.07 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June–January period. In the event that during any month of the June–January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1007.82 [Amended]

14. § 1007.82 is revised to read as follows:

§ 1007.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1007.30(a)(5), bulk milk transferred from an other order plant as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1007.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1007.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of any payment adjustments based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraph (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1007.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1007.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1005, 1011, and 1046, allocated to Class I milk pursuant to § 1007.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1007.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1007.44;

(ii) The dairy farmer was not a "producer" under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing areas of Federal Orders 1005, 1011, or 1046, or within the

Kentucky counties of Allen, Barren, Metcalfe, Monroe, Simpson, and Warren.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c)(1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1007.52;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For the remaining milk described in paragraph (c)(2) of this section after computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

§ 1011.30 [Amended]

15. In § 1011.30, paragraphs (a)(8) and (a)(9) are redesignated, respectively, as paragraphs (a)(9) and (a)(10), new paragraph (a)(8) is added, and paragraphs (a)(6), (a)(7), and (c)(3) are revised to read as follows:

§ 1011.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(6) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Orders 1005, 1007, and 1046, for which a transportation credit is requested pursuant to § 1011.82, including the date that such milk was received;

(7) Receipts of producer milk described in § 1011.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(8) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

* * * * *

(c) * * *

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1011.82, all of the information required in paragraphs (a)(6), (a)(7) and (a)(8) of this section.

* * * * *

§ 1011.32 [Amended]

16. In § 1011.32, a new paragraph (a) is added to read as follows:

§ 1011.32 Other reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1011.9(a), (b), and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1011.30(a)(6), (7), and (8).

* * * * *

§ 1011.61 [Amended]

17. In § 1011.61, paragraph (a)(4) is removed and paragraphs (a)(5) and (a)(6) are redesignated as paragraphs (a)(4) and (a)(5), respectively.

§ 1011.77 [Amended]

18. § 1011.77 is revised to read as follows:

§ 1011.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1011.71 or to the transportation credit balancing fund pursuant to § 1011.81, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1011.72 or § 1011.82, the market administrator shall make payment to such handler within 15 days or, in the case of the transportation credit balancing fund, as soon as funds become available. If a handler is due additional payment for a month in which payments to handlers were prorated pursuant to § 1011.82(a), the additional payment pursuant to this section shall be multiplied by the final proration percentage computed in § 1011.82(a)(2).

(b) Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1011.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to

producers or cooperative associations next following such disclosure.

§ 1011.81 [Amended]

19. In § 1011.81, paragraph (c) is removed and paragraphs (a) and (b) are revised to read as follows:

§ 1011.81 Payments to the transportation credit balancing fund.

(a) On or before the 12th day after the end of the month, each handler operating a pool plant and each handler specified in § 1011.9(b) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1011.44 by $0.06 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June–January period. In the event that during any month of the June–January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1011.82 [Amended]

20. § 1011.82 is revised to read as follows:

§ 1011.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 13th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1011.30(a)(6), bulk milk transferred from an other order plant as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1011.30(a)(7), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1011.32(a). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraph (a)(1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1011.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1011.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association rather than to the operator of the pool plant at which the milk was received.

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1005, 1007, and 1046, and allocated to Class I milk pursuant to § 1011.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1011.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1011.44;

(ii) The dairy farmer was not a "producer" under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing areas of Federal Orders 1005, 1007, or 1046, or within the Kentucky counties of Allen, Barren, Metcalfe, Monroe, Simpson, and Warren.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c) (1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant

load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1011.52;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For milk described in paragraph (c)(2) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

§ 1046.30 [Amended]

21. In § 1046.30, paragraphs (a)(7) and (a)(8) are redesignated, respectively, as paragraphs (a)(8) and (a)(9), new paragraph (a)(7) is added, and paragraphs (a)(5), (a)(6), and (c)(3) are revised to read as follows:

§ 1046.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(5) Receipts of bulk milk from a plant regulated under another Federal order, except Federal Orders 1005, 1007, and 1011, for which a transportation credit is requested pursuant to § 1046.82, including the date that such milk was received;

(6) Receipts of producer milk described in § 1046.82(c)(2), including the identity of the individual producers whose milk is eligible for the transportation credit pursuant to that paragraph and the date that such milk was received;

(7) For handlers submitting transportation credit requests, transfers of bulk milk to nonpool plants, including the dates that such milk was transferred;

* * * * *

(c) * * *

(3) With respect to milk for which a cooperative association is requesting a transportation credit pursuant to § 1046.82, all of the information required in paragraphs (a)(5), (a)(6), and (a)(7) of this section.

* * * * *

§ 1046.32 [Amended]

22. In § 1046.32, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is added to read as follows:

§ 1046.32 Other reports.

* * * * *

(c) On or before the 20th day after the end of each month, each handler described in § 1046.9(a), (b), and (c) shall report to the market administrator any adjustments to transportation credit requests as reported pursuant to § 1046.30(a)(5), (6), and (7).

* * * * *

§ 1046.61 [Amended]

23. In § 1046.61, paragraph (a)(4) is removed and paragraphs (a)(5) and (a)(6) are redesignated as paragraphs (a)(4) and (a)(5), respectively.

§ 1046.77 [Amended]

24. § 1046.77 is revised to read as follows:

§ 1046.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1046.71 or to the transportation credit balancing fund pursuant to § 1046.81, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1046.72 or § 1046.82, the market administrator shall make payment to such handler within 15 days or, in the case of the transportation credit balancing fund, as soon as funds become available. If a handler is due additional payment for a month in which payments to handlers were prorated pursuant to § 1046.82(a), the additional payment pursuant to this section shall be multiplied by the final proration percentage computed in § 1046.82(a)(2).

(b) Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1046.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

§ 1046.78 [Amended]

25. In the introductory text of § 1046.78, the number "1046.81," is added following the number "1046.77,".

§ 1046.81 [Amended]

26. In § 1046.81, paragraph (c) is removed and paragraphs (a) and (b) are revised to read as follows:

§ 1046.81 Payments to the transportation credit balancing fund.

(a) On or before the 15th day after the end of the month, each handler

operating a pool plant and each handler specified in § 1046.9(b) and (c) shall pay to the market administrator a transportation credit balancing fund assessment determined by multiplying the pounds of Class I producer milk assigned pursuant to § 1046.44 by $0.06 per hundredweight or such lesser amount as the market administrator deems necessary to maintain a balance in the fund equal to the total transportation credits disbursed during the prior June–January period. In the event that during any month of the June–January period the fund balance is insufficient to cover the amount of credits that are due, the assessment should be based upon the amount of credits that would have been disbursed had the fund balance been sufficient.

(b) The market administrator shall announce publicly on or before the 5th day of the month the assessment pursuant to paragraph (a) of this section for the following month.

§ 1046.82 [Amended]

27. § 1046.82 is revised to read as follows:

§ 1046.82 Payments from the transportation credit balancing fund.

(a) Payments from the transportation credit balancing fund to handlers and cooperative associations requesting transportation credits shall be made as follows:

(1) On or before the 16th day after the end of each of the months of July through December and any other month in which transportation credits are in effect pursuant to paragraph (b) of this section, the market administrator shall pay to each handler that received, and reported pursuant to § 1046.30(a)(5), bulk milk transferred from an other order plant as described in paragraph (c)(1) of this section or that received, and reported pursuant to § 1046.30(a)(6), milk directly from producers' farms as specified in paragraph (c)(2) of this section, a preliminary amount determined pursuant to paragraph (d) of this section to the extent that funds are available in the transportation credit balancing fund. If an insufficient balance exists to pay all of the credits computed pursuant to this section, the market administrator shall distribute the balance available in the transportation credit balancing fund by reducing payments prorata using the percentage derived by dividing the balance in the fund by the total credits that are due for the month. The amount of credits resulting from this initial proration shall be subject to audit adjustment pursuant to paragraph (a)(2) of this section;

(2) The market administrator shall accept adjusted requests for transportation credits on or before the 20th day of the month following the month for which such credits were requested pursuant to § 1046.32(c). After such date, a preliminary audit will be conducted by the market administrator, who will recalculate any necessary proration of transportation credit payments for the preceding month pursuant to paragraph (a) of this section. Handlers will be promptly notified of an overpayment of credits based upon this final computation and remedial payments to or from the transportation credit balancing fund will be made on or before the next payment date for the following month;

(3) Transportation credits paid pursuant to paragraph (a) (1) and (2) of this section shall be subject to final verification by the market administrator pursuant to § 1046.77. Adjusted payments to or from the transportation credit balancing fund will remain subject to the final proration established pursuant to paragraph (a)(2) of this section; and

(4) In the event that a qualified cooperative association is the responsible party for whose account such milk is received and written documentation of this fact is provided to the market administrator pursuant to § 1046.30(c)(3) prior to the date payment is due, the transportation credits for such milk computed pursuant to this section shall be made to such cooperative association by the pool plant operator pursuant to § 1046.73(f)(2).

(b) The market administrator may extend the period during which transportation credits are in effect (i.e., the transportation credit period) to the months of January and June if a written request to do so is received 15 days prior to the beginning of the month for which the request is made and, after conducting an independent investigation, finds that such extension is necessary to assure the market of an adequate supply of milk for fluid use. Before making such a finding, the market administrator shall notify the Director of the Dairy Division and all handlers in the market that an extension is being considered and invite written data, views, and arguments. Any decision to extend the transportation credit period must be issued in writing prior to the first day of the month for which the extension is to be effective.

(c) Transportation credits shall apply to the following milk:

(1) Bulk milk received from a plant regulated under another Federal order, except Federal Orders 1005, 1007, and 1011, and allocated to Class I milk pursuant to § 1046.44(a)(12); and

(2) Bulk milk received directly from the farms of dairy farmers at pool distributing plants subject to the following conditions:

(i) The quantity of such milk that shall be eligible for the transportation credit shall be determined by multiplying the total pounds of milk received from producers meeting the conditions of this paragraph by the lower of:

(A) The marketwide estimated Class I utilization of all handlers for the month pursuant to § 1046.45(a); or

(B) The Class I utilization of all producer milk of the pool plant operator receiving the milk after the computations described in § 1046.44;

(ii) The dairy farmer was not a "producer" under this order during more than 2 of the immediately preceding months of January through June and not more than 50 percent of the production of the dairy farmer during those 2 months, in aggregate, was received as producer milk under this order during those 2 months. However, if January and/or June are months in which transportation credits are disbursed pursuant to paragraph (a) of this section, these months shall not be included in the 2-month limit provided in this paragraph; and

(iii) The farm on which the milk was produced is not located within the specified marketing area of this order or the marketing areas of Federal Orders 1005, 1007, or 1011, or within the Kentucky counties of Allen, Barren, Metcalfe, Monroe, Simpson, and Warren.

(d) Transportation credits shall be computed as follows:

(1) The market administrator shall subtract from the pounds of milk described in paragraphs (c) (1) and (2) of this section the pounds of bulk milk transferred from the pool plant receiving the supplemental milk if milk was transferred to a nonpool plant on the same calendar day that the supplemental milk was received. For this purpose, the transferred milk shall be subtracted from the most distant load of supplemental milk received, and then in sequence with the next most distant load until all of the transfers have been offset;

(2) With respect to the pounds of milk described in paragraph (c)(1) of this section that remain after the computations described in paragraph (d)(1) of this section, the market administrator shall:

(i) Determine the shortest hard-surface highway distance between the shipping plant and the receiving plant;

(ii) Multiply the number of miles so determined by 0.35 cent;

(iii) Subtract the other order's Class I price applicable at the shipping plant's location from the Class I price applicable at the receiving plant as specified in § 1046.52;

(iv) Subtract any positive difference computed in paragraph (d)(2)(iii) of this section from the amount computed in paragraph (d)(2)(ii) of this section; and

(v) Multiply the remainder computed in paragraph (d)(2)(iv) of this section by the hundredweight of milk described in paragraph (d)(2) of this section.

(3) For milk described in paragraph (c)(2) of this section, the market administrator shall:

(i) Determine an origination point for each load of milk by locating the nearest city to the last producer's farm from which milk was picked up for delivery to the receiving pool plant. Alternatively, the milk hauler that is transporting the milk of producers described in paragraph (c)(2) of this section may establish an origination point following the last farm pickup by stopping at the nearest independently-operated truck stop with a certified truck scale and obtaining a weight certificate indicating the weight of the truck and its contents, the date and time of weighing, and the location of the truck stop;

(ii) Determine the shortest hard-surface highway distance between the receiving pool plant and the truck stop or city, as the case may be;

(iii) Subtract 85 miles from the mileage so determined;

(iv) Multiply the remaining miles so computed by 0.35 cent;

(v) If the origination point determined pursuant to paragraph (d)(3)(i) of this section is in a Federal order marketing area, subtract the Class I price applicable at the origination point pursuant to the provisions of such other order (as if the origination point were a plant location) from the Class I price applicable at the distributing plant receiving the milk. If the origination point is not in any Federal order marketing area, determine the Class I price at the origination point based upon the provisions of this order and subtract this price from the Class I price applicable at the distributing plant receiving the milk;

(vi) Subtract any positive difference computed in paragraph (d)(3)(v) of this section from the amount computed in paragraph (d)(3)(iv) of this section; and

(vii) Multiply the remainder computed in paragraph (d)(3)(vi) by the hundredweight of milk described in paragraph (d)(3) of this section.

[FR Doc. 97–13000 Filed 5–19–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

RIN 0572–AA89

Long-Range Financial Forecasts of Electric Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to amend its policy on long-range financial forecasts of electric borrowers. RUS requires that applicants for loans, loan guarantees, lien accommodations, and certain general fund approvals, submit, as part of their application, a long-range financial forecast. RUS loans are generally amortized over a period of 35 years, and the long-range financial forecast provides RUS information necessary to determine that the loans are feasible. This amended provision will eliminate some of the items in the present forecasting regulation that are no longer considered necessary to be included in borrower's forecast. Eliminated items include the sensitivity study for all forecasts, and a commercially available credit report for applicants seeking a loan or loan guarantee. The proposed regulation provides that RUS may request a sensitivity study on a case-by-case basis.

DATES: Written comments must be received by RUS or carry a postmark or equivalent by July 21, 1997.

ADDRESSES: Written comments should be addressed to William E. Davis, Program Advisor, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1569. RUS requires a signed original and three copies of all comments (7 CFR 1700.30(e)). Comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: William E. Davis, Program Advisor, Electric Program, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, D.C. 20250–1569, telephone number: (202) 720–0738, E-mail: wdavis@rus.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in Section 3 of the Executive Order.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) definition of the rule does not include rules relating to the RUS electric program, and, therefore, the Regulatory Flexibility Act does not apply to this proposed rule.

Information Collection and Recordkeeping Requirements

The reporting and recordkeeping requirements contained in the proposed rule were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number 0572–0032.

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden to William E. Davis, Program Advisor, Electric Program, Rural Utilities Service, 1400 Independence Ave., SW., Washington, D.C. 20250–1569.

National Environmental Policy Act Certification

RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under number 10.850 Rural Electrification Loans and Loan Guarantees. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, D.C. 20402–9325, telephone number (202)783–3238.

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS loans and loan guarantees to governmental and nongovernmental entities from coverage under this order.

National Performance Review

This regulatory action is being taken as part of the
National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Background

Rural Utilities Services,(RUS), makes loans, loan guarantees, and lien accommodations to provide electric service to new consumers, and to improve the quality and quantity of electric service to existing consumers in rural areas, as authorized by the Rural Electrification Act of 1936, as amended, 7 U.S.C. 901 *et seq.* (RE Act). According to the terms of the RE Act and RUS regulations, RUS may make a loan only if the Administrator of RUS determines that the security thereof is reasonably adequate and such loan will be repaid within the time agreed.

Regulations establishing the requirement that borrowers submit a long-range financial forecast as part of a loan application are set forth at 7 CFR part 1710, subpart G. On October 19, 1993, at 58 FR 53835, Rural Electrification Administration (REA), predecessor to RUS, published a rule, 7 CFR part 1717, subparts R and S, setting forth policies for lien accommodations and subordination. Under this regulation, RUS requires borrowers to submit a long-range financial forecast as part of certain applications for a lien accommodation or subordination. The proposed regulation will affect these requirements by changing how the long-range financial forecast is prepared.

List of Subjects in 1 CFR Part 1710

Electric power, Electric utilities, Loan programs-energy, Rural areas.

PART 1710—GENERAL AND PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED ELECTRIC LOANS

1. The authority citation for part 1710 continues to read as follows:

Authority: 7 U.S.C. 901–905b; Public Law 99–591, 100 Stat. 3341–16; Public Law 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et seq.*)

2. Section 1710.300 is amended by revising paragraph (d)(5) to read as follows:

§ 1710.300 General.

* * * * *

(d) * * *

(5) A sensitivity analysis may be required by RUS on a case-by-case basis. When RUS determines that a sensitivity analysis is necessary for Distribution Borrowers, the variables to be tested will be determined by the General Field Representative in consultation with the Borrower and the Regional Office. The Regional Office will consult with the Power Supply Division in the case of generation projects for Distribution Borrowers. For Power Supply Borrowers, the variables to be tested will be determined by the borrower and the Power Supply Division.

* * * * *

3. Paragraph (f) of section 1710.300 is removed.

4. Section 1710.302 is amended by revising paragraphs (b), (d)(1), and (d)(5), to read as follows:

§ 1710.302 Financial forecasts—power supply borrowers.

* * * * *

(b) The financial forecast shall cover a period of 10 years. RUS may request projections for a longer period of time if deemed necessary.

* * * * *

(d) * * *

(1) Identify all plans for generation and transmission capital additions and system operating expenses on a year-by-year basis, beginning with the present and running for 10 years, unless a longer period of time has been requested by RUS.

* * * * *

(5) Include sensitivity analysis if required by RUS pursuant to § 1710.300(d)(5).

* * * * *

Dated: May 9, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97–13129 Filed 5–19–97; 8:45 am]

BILLING CODE 3410–15–P

FEDERAL RESERVE SYSTEM

12 CFR Part 210

[Regulation J; Docket No. R–0972]

Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: Effective January 1, 1998, the Reserve Banks will begin to implement a policy under which each depository institution may maintain only a single funds account with the Federal Reserve. A single account will establish a single debtor-creditor relationship between each institution and a Federal Reserve Bank and will make account management more efficient for banks with interstate branches. The Board is proposing amendments to subpart A of Regulation J to conform the Federal Reserve check collection rules to the single account structure.

DATES: Comments must be submitted on or before July 21, 1997.

ADDRESSES: Comments, which should refer to Docket No. R–0972, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

FOR FURTHER INFORMATION CONTACT: Oliver Ireland, Associate General Counsel, (202/452–3625), Stephanie Martin, Senior Attorney (202/452–3198), or Heatherun Allison, Attorney (202/452–3565), Legal Division. For the hearing impaired *only*, contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452–3544), Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Overview

The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103–328) made significant changes to various banking laws to authorize and facilitate interstate banking. Consequently, the number of depository institutions that operate branches in more than one Federal Reserve District is expected to increase. On January 1, 1998, the Federal Reserve Banks will begin to implement a new account structure that will provide a single Federal Reserve account for each

institution.[1] A primary objective of the single account structure is to establish a single debtor-creditor relationship between each chartered entity and the Federal Reserve. A single debtor-creditor relationship is the most effective means for Reserve Banks to manage their affairs with a depository institution. A single account structure also may allow depository institutions to manage their overall position with the Reserve Banks more efficiently.

The Board has already requested comment on amendments to Regulations D and I (Reserve Requirements of Depository Institutions and Issue and Cancellation of Capital Stock of Federal Reserve Banks, respectively) to define the location of a depository institution for purposes of reserve accounts and Federal Reserve membership (62 FR 11117, March 11, 1997). The Board is now proposing amendments to subpart A of Regulation J, governing the collection of checks and other items by Federal Reserve Banks, to conform the Federal Reserve check collection rules to the single account structure. The Board does not believe it is necessary to amend subpart B of Regulation J, which governs funds transfers through Fedwire, to accommodate the single account structure. The Reserve Banks will, however, issue revised operating circulars governing collection of cash items, Fedwire funds transfers, and other Reserve Bank services to reflect the new account structure.

Under the proposed Regulation J amendments, all of an institution's check collection transactions through the Federal Reserve Banks would be reflected in a single account held at that institution's "Administrative Reserve Bank" (or in a correspondent's account at a Reserve Bank). The proposed amendments to Regulation D provide a means to determine the location of an institution's reserve account.[2] Proposed Regulation J would provide that the account location of an institution that sends items to a Reserve Bank for collection (and the identity of its Administrative Reserve Bank) would be determined in accordance with the provisions of Regulation D, even if the institution is not otherwise subject to that regulation.

Under the proposed amendments, an institution generally would be permitted to send an item to any Reserve Bank for collection, but the item will be deemed to have been sent first to that institution's Administrative Reserve Bank. The proposed amendments would designate the parties that are deemed to handle the item and the order in which they are deemed to have handled it. (Although the Administrative Reserve Bank would be deemed to handle the check, it would not be considered to have "received" the check as that term is used in subpart A of Regulation J if the check is initially sent to another Reserve Bank.) The amendments would require a paying bank to settle for an item with its Administrative Reserve Bank (regardless of whether the institution received the item from its Administrative Reserve Bank) and would specify the time and manner in which the paying bank is to make settlement. The proposed amendments also would make changes in the rules governing the handling of and settlement for returned checks parallel to those proposed for cash items.

Section-by-Section Analysis

Section 210.2 Definitions

The Board proposes to add two new definitions to Regulation J. Under the new account structure, all of an institution's transactions will be reflected in a single account held at the institution's Administrative Reserve Bank. The Board is proposing to add a definition of "account" to mean an account with reserve or clearing balances held on the books of a Federal Reserve Bank. If a depository institution desires, the Reserve Banks will also keep informational records, or subaccounts, of certain subsets of transactions that affect an account (such as the transactions performed by a branch of a bank that may be in another district from the Administrative Reserve Bank).

The Board proposes to define "Administrative Reserve Bank" as the Reserve Bank in whose District the entity in question is located. An entity's location would be determined in the same way as location is determined for purposes of reserve accounts under the Board's Regulation D. (See footnote 2.)

The Board also proposes to amend the definition of "bank" to conform to the Uniform Commercial Code (§§ 4–105 and 4–107). Finally, the Board proposes to amend the definition of "cash item" to provide that, under the new single-account system, the Reserve Bank that initially receives an item for deposit, rather than the Reserve Bank in whose District the item is payable, is the Reserve Bank that decides whether to accept the item as a cash item.

Section 210.3(a) General Provisions

This paragraph provides that the Reserve Banks may issue operating circulars governing the details of their check collection services and related matters. The Board proposes to specify that the operating circulars may allow an Administrative Reserve Bank to give instructions to other Reserve Banks, such as instructions regarding the handling of items that would affect an account on its books.

Section 210.4 Sending Items to Reserve Banks

The Board proposes to amend this section to provide that a sender (other than a Reserve Bank sender) may send an item to any Reserve Bank for collection, regardless of where the sender or the paying bank is located. This amendment would provide flexibility for depository institutions, foster competition among Reserve Banks, and promote faster collection of checks. For example, a bank with its head office in Richmond would likely have its account at the Federal Reserve Bank of Richmond. An Iowa branch of that bank may wish to send its checks to the Federal Reserve Bank of Chicago or the Federal Reserve Bank of Kansas City, or both, all of which would be permissible under the proposed rule. The sender's Administrative Reserve Bank (the Federal Reserve Bank of Richmond in this example), however, may override this rule and require the sender to send the item to a particular Reserve Bank. For example, if a bank is in financial difficulty, the Administrative Reserve Bank may want to require the bank to deposit all of its items directly with a particular Reserve Bank in order to retain closer control over the bank's account.

Section 13(1) of the Federal Reserve Act (FRA)[3] authorizes a Reserve Bank to accept deposits of checks and other items from its member banks or from other depository institutions and to accept from other Reserve Banks checks and other items payable within its District. Under the Board's proposal, if a sender sends a check to a Reserve Bank other than its Administrative Reserve Bank or the Reserve Bank in whose District the check is payable, the receiving Reserve Bank would be

[1] A foreign bank's U.S. branches and agencies and an Edge or agreement corporation's offices will not be required to adopt a single account structure.

[2] The proposed Regulation D provision would provide that a depository institution is considered to be located in the Federal Reserve District specified in the institution's charter or organizing certificate, or, if no such location is specified, the location of its head office. If that location, in the Board's judgment, is ambiguous or would impede the ability of the Board or the Federal Reserve Banks to perform their functions under the Federal Reserve Act, the Board could make exceptions to the general rule for a particular institution after considering certain criteria.

[3] 12 U.S.C. 360.

deemed to be acting as agent of the Administrative Reserve Bank. Proposed Regulation J would require, however, that such a receiving Reserve Bank take on additional rights, duties, and liabilities in its own name that it would not necessarily have as a common law agent of the Administrative Reserve Bank. For example, the receiving Reserve Bank would be considered an indorser on the check and would make warranties on the check under § 210.6, Regulation CC, and the Uniform Commercial Code in its own name. The Board believes that requiring such a receiving Reserve Bank to take on these rights, duties, and liabilities is necessary to preserve a clear chain of warranties and other claims in the check collection and return system. Currently, in those limited situations where a Reserve Bank accepts deposits from institutions other than those located in its District, it does so under a special agency agreement with the institution's home Reserve Bank. Rather than perpetuating these special agreements, the Board proposes to amend Regulation J to establish the terms under which the receiving Reserve Bank would handle items on behalf of an Administrative Reserve Bank.

Specifically, the proposed amendments to § 210.4 would designate the parties that are deemed to handle an item and the order in which they are deemed to have handled the item. These amendments would establish the chain of indorsements on an item under Regulation J, Regulation CC, and the Uniform Commercial Code, as well as the order in which the parties are agents or subagents of the owner of an item, as provided in § 210.6(a). As noted above, the proposal provides that the sender is deemed to send the item to its Administrative Reserve Bank, regardless of whether that Reserve Bank actually receives the item first. The Administrative Reserve Bank is deemed to send the item to the Reserve Bank that actually receives the item from the sender (if different from the Administrative Reserve Bank). Any subsequent Reserve Bank that receives the item from another Reserve Bank is deemed to handle the item in turn.

In the example from the previous paragraph, where an Iowa branch of a Richmond bank sends a check to the Chicago Reserve Bank for collection, the check would be deemed handled in the following order: the initial sender, the Richmond Reserve Bank (the Administrative Reserve Bank), and the Chicago Reserve Bank (the first Reserve Bank to receive the item). If the check in this example were drawn on a banking office in New York, the Chicago Reserve Bank would send the check to the Federal Reserve Bank of New York, in which case the New York Reserve Bank would be the last Reserve Bank to handle the check and would present the check to the paying bank. No other Reserve Bank would handle or would be deemed to handle the item. In the example, if the paying bank's Administrative Reserve Bank is the Federal Reserve Bank of Boston (which might be the case if the check is payable by a New York office of a bank headquartered in Boston), the Boston Reserve Bank is not a party to the check, even though settlement for the check will ultimately take place by a debit to an account on the Boston Reserve Bank's books. (See Table 1.)

Table 1

This table illustrates the following example:
A Richmond-based bank has its account at the Federal Reserve Bank of Richmond (Richmond Fed), its Administrative Reserve Bank. An Iowa branch of the bank sends a check to the Federal Reserve Bank of Chicago (Chicago Fed) for collection. The check is payable by a New York office of a Boston-based bank, which has an account at the Federal Reserve Bank of Boston (Boston Fed). The Chicago Fed sends the check to the Federal Reserve Bank of New York (NY Fed), which presents the check to the New York office of the paying bank.

Path of physical check

Initial sender → Chicago Fed → NY Fed → Paying Bank

Parties deemed to have handled the check (Chain of Indorsements)

Initial sender → Richmond Fed → Chicago Fed → NY Fed → Paying Bank

Section 210.5 Sender's Agreement; Recovery by Reserve Bank

Paragraph (a) of § 210.5 sets forth the terms and warranties to which a sender agrees when it sends an item to a Reserve Bank. The Board is proposing to amend this paragraph to conform with the provisions of § 210.4. Specifically, a sender would authorize its Administrative Reserve Bank, as well as any other Reserve Bank to which the item is sent, to handle an item and would authorize the Reserve Banks to make the appropriate accounting entries in settlement for the item. The Board proposes to make minor amendments to paragraph (c) (and parallel amendments to § 210.12(f)), which would simplify the provisions describing how settlements occur between Reserve Banks. The Board also proposes to redesignate the paragraph numbers in paragraph (c).

Paragraph (d) of § 210.5 requires a sender to grant a security interest in all its assets held by a Reserve Bank to secure any of its obligations related to items collected through the Reserve Banks. The Board proposes to amend this section to provide that the security interest is granted to the sender's Administrative Reserve Bank.

Section 210.6 Status, Warranties, and Liability of Reserve Bank

Paragraph (a) of this section provides that Reserve Banks act as agents or subagents of the owner of an item. The Board proposes to modify the reference to a Reserve Bank in the first sentence with the phrase "that handles an item" to clarify that this paragraph refers to the Reserve Banks that are identified in proposed § 210.4. The current language provides that the agency terminates when a Reserve Bank receives final payment for the item and makes the proceeds available for use by the sender. The Board proposes to amend this provision by stating that the agency status will not end unless the time for commencing all actions against the Reserve Bank has expired. This amendment would ensure that the agency and subagency relationships between Reserve Banks regarding a particular item, as set forth in proposed § 210.4, will continue until the statute of limitations has run on claims regarding any dispute concerning the item. The Board also proposes to reorganize the numbering in paragraphs (a) and (b) of this section.

Section 210.7 Presenting Items for Payment

This section provides rules regarding the presentment of items for payment. The Board proposes to make minor changes to paragraphs (c) and (d). Rather than referring to an item that is

"payable" in a certain Federal Reserve District, the Board proposes to refer to items that may be "sent to the paying bank or nonbank payor" in a certain Federal Reserve District. The Board believes the proposed language is more precise that the current provision.

Section 210.8 Presenting Noncash Items for Acceptance

Similar to the proposed changes to § 210.7, the Board is proposing to replace the term "payable elsewhere" with the term "may be presented elsewhere." The Board also proposes to reorganize the paragraph numbering in this section.

Section 210.9 Settlement and Payment

This section sets forth the time and manner by which a paying bank must settle for items it receives from a Reserve Bank. The Board proposes to add a new paragraph (a) (and to redesignate the following paragraphs accordingly) to provide that a paying bank must settle for an item with its Administrative Reserve Bank, whether or not the paying bank actually receives the item from that Reserve Bank. By settling with its Administrative Reserve Bank, the paying bank would meet any settlement obligation it may have under Regulation CC and the Uniform Commercial Code. For example, the Uniform Commercial Code (§§ 4–301 and 4–302) requires a paying bank to settle with the presenting bank by midnight on the day of presentment if it wants to preserve its right to return the check by its midnight deadline on its next banking day. By settling with its Administrative Reserve Bank, a paying bank would satisfy this obligation to a presenting Reserve Bank.

The new paragraph (a) would also provide that a paying bank may settle through a correspondent account, with the agreement of its Administrative Reserve Bank, the Reserve Bank (if different) that holds the correspondent's account, and the correspondent. The paying bank would remain responsible for settlement if for some reason settlement does not occur through the correspondent account. The Board proposes to make a conforming change to paragraph (c) (as redesignated) related to payment for noncash items.

Currently, Regulation J requires the paying bank to settle so that funds are available to the presenting Reserve Bank by the close of Fedwire on the day of presentment. The Board proposes: (1) amendments to paragraph (b) (as redesignated) of § 210.9 to clarify that settlement funds must be made available to the paying bank's Administrative Reserve Bank, rather than the presenting Reserve Bank; (2) to change the references to a Reserve Bank's operating circular to include all of the Reserve Banks' operating circulars, as those circulars will be uniform as of January 1, 1998; (3) to clarify paragraph (b)(3) to refer to days the paying bank is closed voluntarily "so that it does not receive a cash item" (the provisions of this paragraph would not apply if the paying bank's head office were closed for business but a branch still received presentment of cash items from the Reserve Banks); (4) to replace references to "one hour after the scheduled opening of Fedwire" with "9:30 a.m. Eastern Time" so that this time will remain unchanged when the Fedwire opening hour is moved to 12:30 a.m. in December 1997; (5) to add paragraph headings throughout paragraph (b); and (6) to make conforming changes to cross-references throughout § 210.9 in light of the paragraph redesignations.

Section 210.10 Time Schedule and Availability of Credits for Cash Items and Returned Checks

This paragraph provides that a Reserve Bank shall make proceeds available for cash items and returned checks according to its published time schedules. The proposed amendments to this section would clarify that the Reserve Bank that holds the settlement account will make credit available according to the time schedule of the Reserve Bank that first receives the cash item (or returned check) from the sender (or the paying or returning bank). The Board also proposes a conforming amendment to § 210.11(b) regarding credit for noncash items.

Section 210.12 Return of Cash Items and Handling of Returned Checks

This section sets forth the rules governing handling of and settlement for returned checks. The rules for returned checks are generally parallel to the rules for cash items, and the Board is proposing amendments that are parallel to the amendments for cash items discussed above. Under the proposal, a paying bank or returning bank may send a returned check to any Reserve Bank, unless its Administrative Reserve Bank directs it to send the returned check to a specific Reserve Bank. As with cash items, the paying or returning bank's Administrative Reserve Bank would be deemed to have handled the item first, prior to the Reserve Bank that actually received the item, for purposes of determining the relationships, rights, and liabilities of the parties (see discussion of § 210.4). Also similar to cash items, a paying or returning bank would authorize the handling of a returned check by its Administrative Reserve Bank, as well as by any other Reserve Bank to which a returned check is sent, and would authorize the Reserve Banks to make the appropriate accounting entries in settlement for the returned check (see discussion of § 210.5). A subsequent returning bank or depositary bank would be required to settle for a returned check with its Administrative Reserve Bank, whether or not the bank actually receives the returned check from that Reserve Bank. By settling with its Administrative Reserve Bank, the subsequent returning bank or depositary bank would meet its settlement obligations under Regulation CC and the Uniform Commercial Code (see discussion of § 210.9(a)). Finally, a paying or returning bank would grant a security interest in all its assets held by its Administrative Reserve Bank to secure any of its obligations related to returned checks it sends to a Reserve Bank (see discussion of § 210.5(d)).

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish an initial regulatory flexibility analysis with any notice of proposed rulemaking. Two of the requirements of an initial regulatory flexibility analysis (5 U.S.C. 603(b)), a description of the reasons why action by the agency is being considered and a statement of the objectives of, and legal basis for, the proposed rule, are contained in the supplementary material above. The proposed rule requires no additional reporting or recordkeeping requirements and does not overlap with other federal rules. Regulation J bears a close relationship with the Board's Regulation CC (12 CFR part 229), and that relationship is explained in the supplementary information above as well as in the provisions of the two regulations.

Another requirement for the initial regulatory flexibility analysis is a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The proposal will apply to all institutions, regardless of size, that send checks, returned checks, or other items to a Reserve Bank or receive items from a Reserve Bank. In 1996, subsidiaries of the 100 largest bank holding companies deposited approximately 46 percent of the Federal Reserve Banks' check volume, and all other banks deposited 54 percent. The Reserve Banks presented approximately 31 percent of their check volume to subsidiaries of the 100 largest bank holding companies,

and 69 percent to all other banks. The proposed rule sets out the terms under which the Reserve Banks handle items and do not impose significant burdens on small institutions.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the proposed rule.

List of Subjects in 12 CFR Part 210

Banks, banking, Federal Reserve System.

For the reasons set out in the preamble, the Board proposes to amend part 210 of chapter II of title 12 of the Code of Federal Regulations as set forth below:

PART 210—COLLECTION OF CHECKS AND OTHER ITEMS BY FEDERAL RESERVE BANKS AND FUNDS TRANSFERS THROUGH FEDWIRE (REGULATION J)

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

Authority: 12 U.S.C. 248(i), (j), and (o), 342, 360, 464, and 4001–4010.

2. Section 210.2 is amended by redesignating paragraph (a) and paragraphs (b) through (p) as paragraph (b) and paragraphs (d) through (r), respectively; adding new paragraphs (a) and (c); and revising newly redesignated paragraphs (d), (g) introductory text, and (g)(2) to read as follows:

§ 210.2 Definitions.

* * * * *

(a) *Account* means an account with reserve or clearing balances on the books of a Federal Reserve Bank. A subaccount is an informational record of a subset of transactions that affect an account and is not a separate account.

* * * * *

(c) *Administrative Reserve Bank* with respect to an entity means the Reserve Bank in whose District the entity is located, as determined under the procedure described in § 204.3(b)(2) of this chapter (Regulation D), even if the entity is not otherwise subject to that section.

* * * * *

(d) *Bank* means any person engaged in the business of banking. A branch or separate office of a bank is a separate bank to the extent provided in the Uniform Commercial Code.

* * * * *

(g) *Cash item* means—

* * * * *

(2) Any other item payable on demand and collectible at par that the Reserve Bank that receives the item is willing to accept as a cash item. *Cash item* does not include a returned check.

* * * * *

3. In § 210.3, the last sentence of paragraph (a) is revised to read as follows:

§ 210.3 General provisions.

(a) *General.* * * * The circulars may, among other things, classify cash items and noncash items, require separate sorts and letters, provide different closing times for the receipt of different classes or types of items, provide for instructions by an Administrative Reserve Bank to other Reserve Banks, set forth terms of services, and establish procedures for adjustments on a Reserve Bank's books, including amounts, waiver of expenses, and payment of interest by as-of adjustment.

* * * * *

4. Section 210.4 is revised to read as follows:

§ 210.4 Sending items to Reserve Banks.

(a) *Sending of items.* A sender, other than a Reserve Bank, may send any item to any Reserve Bank, whether or not the item is payable within the Reserve Bank's District, unless the sender's Administrative Reserve Bank directs the sender to send the item to a specific Reserve Bank.

(b) *Handling of items.* (1) The following parties, in the following order, are deemed to have handled an item that is sent to a Reserve Bank for collection—

(i) The initial sender;

(ii) The initial sender's Administrative Reserve Bank;

(iii) The Reserve Bank that receives the item from the initial sender (if different from the initial sender's Administrative Reserve Bank); and

(iv) Another Reserve Bank, if any, that receives the item from a Reserve Bank.

(2) A Reserve Bank that is not described in paragraph (b)(1) of this section is not a party that handles an item and is not a collecting bank with respect to an item.

(3) The identity and order of the parties under paragraph (b)(1) of this section determine the relationships and the rights and liabilities of the parties under this subpart, part 229 of this chapter (Regulation CC), and the Uniform Commercial Code. An initial sender's Administrative Reserve Bank that is deemed to handle an item is also deemed to be a sender with respect to that item. The Reserve Banks that are deemed to handle an item are deemed to be agents or subagents of the owner of the item, as provided in § 210.6(a) of this subpart.

(c) *Checks received at par.* The Reserve Banks shall receive cash items and other checks at par.

5. In § 210.5, paragraphs (a)(1) and (c) and the first sentence of paragraph (d) are revised to read as follows:

§ 210.5 Sender's agreement; recovery by Reserve Bank.

(a) * * *

(1) Authorizes the sender's Administrative Reserve Bank and any other Reserve Bank or collecting bank to which the item is sent to handle the item (and authorizes any Reserve Bank that handles settlement for the item to make accounting entries), subject to this subpart and to the Reserve Banks' operating circulars, and warrants its authority to give this authorization;

* * * * *

(c) *Methods of recovery.* (1) The Reserve Bank may recover the amount stated in paragraph (b) of this section by charging any account on its books that is maintained or used by the sender (or by charging a Reserve Bank sender), if—

(i) The Reserve Bank made seasonable written demand on the sender to assume defense of the action or proceeding; and

(ii) The sender has not made any other arrangement for payment that is acceptable to the Reserve Bank.

(2) The Reserve Bank is not responsible for defending the action or proceeding before using this method of recovery. A Reserve Bank that has been charged under this paragraph (c) may recover from its sender in the manner and under the circumstances set forth in this paragraph (c). A Reserve Bank's failure to avail itself of the remedy provided in this paragraph (c) does not prejudice its enforcement in any other manner of the indemnity agreement referred to in paragraph (a)(3) of this section.

(d) *Security interest.* When a sender sends an item to a Reserve Bank, the sender and any prior collecting bank grant to the sender's Administrative Reserve Bank a security interest in all of their respective assets in the possession of, or held for the account of, any Reserve Bank to secure their respective obligations due or to become due to the Administrative Reserve Bank under this subpart or subpart C of part 229 of this chapter (Regulation CC). * * *

6. In § 210.6, paragraphs (a)(1) and (b) are revised to read as follows:

§ 210.6 Status, warranties, and liability of Reserve Bank.

(a)(1) *Status and Liability.* A Reserve Bank that handles an item shall act as agent or subagent of the owner with respect to the item. This agency terminates when a Reserve Bank receives final payment for the item in actually and finally collected funds, a Reserve Bank makes the proceeds available for use by the sender, and the time for commencing all actions against the Reserve Bank has expired. A Reserve Bank shall not have or assume any liability with respect to an item or its proceeds except—

(i) For the Reserve Bank's own lack of good faith or failure to exercise ordinary care;

(ii) As provided in paragraph (b) of this section; and

(iii) As provided in subpart C of part 229 (Regulation CC) of this chapter.

* * * * *

(b) *Warranties and liability.* (1) By presenting or sending an item, a Reserve Bank warrants to a subsequent collecting bank and to the paying bank and any other payor—

(i) That the Reserve Bank is a person entitled to enforce the item (or is authorized to obtain payment of the item on behalf of a person who is either entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item); and

(ii) That the item has not been altered.

(2) The Reserve Bank also makes the warranties set forth in § 229.34(c) of this chapter, subject to the terms of part 229 of this chapter (Regulation CC). The Reserve Bank shall not have or assume any other liability to the paying bank or other payor, except for the Reserve Bank's own lack of good faith or failure to exercise ordinary care.

* * * * *

7. In § 210.7, paragraph (c) introductory text and paragraph (d) are revised to read as follows:

§ 210.7 Presenting items for payment.

* * * * *

(c) *Presenting or sending direct.* A Reserve Bank or subsequent collecting bank may, with respect to an item that may be sent to the paying bank or nonbank payor in the Reserve Bank's District—

* * * * *

(d) *Item sent to another district.* A Reserve Bank receiving an item that may be sent to a paying bank or nonbank payor in another District ordinarily sends the item to the Reserve Bank of the other District, but with the agreement of the other Reserve Bank, may present or send the item as if it were sent to a paying bank or nonbank payor in its own District.

8. Section 210.8 is revised to read as follows:

§ 210.8 Presenting noncash items for acceptance.

(a) A Reserve Bank or a subsequent collecting bank may, if instructed by the sender, present a noncash item for acceptance in any manner authorized by law if—

(1) The item provides that it must be presented for acceptance;

(2) The item may be presented elsewhere than at the residence or place of business of the payor; or

(3) The date of payment of the item depends on presentment for acceptance.

(b) Documents accompanying a noncash item shall not be delivered to the payor upon acceptance of the item unless the sender specifically authorizes delivery. A Reserve Bank shall not have or assume any other obligation to present or to send for presentment for acceptance any noncash item.

9. Section 210.9 is amended by redesignating paragraphs (a) through (e) as paragraphs (b) through (f); adding a new paragraph (a); revising newly redesignated paragraphs (b) and (c); and in newly redesignated paragraph (f) removing the references "paragraphs (a), (b), and (c)" and adding in their place "paragraphs (b), (c), and (d)".

§ 210.9 Settlement and payment.

(a) *Settlement through Administrative Reserve Bank.* A paying bank shall settle for an item under this subpart with its Administrative Reserve Bank, whether or not the paying bank received the item from that Reserve Bank. A paying bank's settlement with its Administrative Reserve Bank is deemed to be settlement with the Reserve Bank from which the paying bank received the item. A paying bank may settle for an item using any account on a Reserve Bank's books by agreement with its Administrative Reserve Bank, any other Reserve Bank holding the settlement account, and the account-holder. The paying bank remains responsible for settlement if the Reserve Bank holding the settlement account does not, for any reason, obtain settlement in that account.

(b) *Cash items*—(1) *Settlement obligation.* On the day a paying bank receives[2] a cash item from a Reserve Bank, it shall settle for the item such that the proceeds of the settlement are available to its Administrative Reserve Bank by the close of Fedwire on that day, or it shall return the item by the later of the close of its banking day or the close of Fedwire. If the paying bank fails to settle for or return a cash item in accordance with this paragraph (b)(1), it is accountable for the amount of the item as of the close of its banking day or the close of Fedwire on the day it receives the item, whichever is earlier.

(2) *Time of settlement.* (i) On the day a paying bank receives a cash item from a Reserve Bank, it shall settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank, or return the item, by the latest of—

(A) The next clock hour that is at least one hour after the paying bank receives the item;

(B) 9:30 a.m. Eastern Time; or

(C) Such later time as provided in the Reserve Banks' operating circulars.

(ii) If the paying bank fails to settle for or return a cash item in accordance with paragraph (b)(2)(i) of this section, it shall be subject to any applicable overdraft charges. Settlement under paragraph (b)(2)(i) of this section satisfies the settlement requirements of paragraph (b)(1) of this section.

(3) *Paying bank closes voluntarily.* (i) If a paying bank closes voluntarily so that it does not receive a cash item on a day that is a banking day for a Reserve Bank, and the Reserve Bank makes the cash item available to the paying bank on that day, the paying bank shall either—

(A) On that day, settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank, or return the item, by the latest of the next clock hour that is at least one hour after it ordinarily would have received the item, 9:30 a.m. Eastern Time, or such later time as provided in the Reserve Banks' operating circulars; or

(B) On the next day that is a banking day for both the paying bank and the Reserve Bank, settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank by 9:30 a.m. Eastern Time on that day or such later time as provided in the Reserve Banks' operating circulars and compensate the Reserve Bank for the value of the float associated with the item in accordance with procedures provided in the Reserve Bank's operating circular.

(ii) If a paying bank closes voluntarily so that it does not receive a cash item on a day that is a banking day for a Reserve Bank, and the Reserve Bank makes the cash item available to the

[2] A paying bank is deemed to receive a cash item on its next banking day if it receives the item—

(1) On a day other than a banking day for it; or

(2) On a banking day for it, but after a "cut-off hour" established by it in accordance with state law.

paying bank on that day, the paying bank is not considered to have received the item until its next banking day, but it shall be subject to any applicable overdraft charges if it fails to settle for or return the item in accordance with paragraph (b)(3)(i) of this section. The settlement requirements of paragraphs (b)(1) and (b)(2) of this section do not apply to a paying bank that settles in accordance with paragraph (b)(3)(i) of this section.

(4) *Reserve Bank closed.* (i) If a paying bank receives a cash item from a Reserve Bank on a banking day that is not a banking day for the Reserve Bank, the paying bank shall—

(A) Settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank by the close of Fedwire on the Reserve Bank's next banking day, or return the item by midnight of the day it receives the item (if the paying bank fails to settle for or return a cash item in accordance with this paragraph (b)(4)(i)(A), it shall become accountable for the amount of the item as of the close of the its banking day on the day it receives the item); and

(B) Settle for the item so that the proceeds of the settlement are available to its Administrative Reserve Bank by 9:30 a.m. Eastern Time on the Reserve Bank's next banking day or such later time as provided in the Reserve Bank's operating circular, or return the item by midnight of the day it receives the item. If the paying bank fails to settle for or return a cash item in accordance with this paragraph (b)(4)(i)(B), it shall be subject to any applicable overdraft charges. Settlement under this paragraph (b)(4)(i)(B) satisfies the settlement requirements of paragraph (b)(4)(i)(A) of this section.

(ii) The settlement requirements of paragraphs (b)(1) and (b)(2) of this section do not apply to a paying bank that settles in accordance with paragraph (b)(4)(i) of this section.

(5) *Manner of settlement.* Settlement with a Reserve Bank under paragraphs (b) (1) through (4) of this section shall be made by debit to an account on the Reserve Bank's books, cash, or other form of settlement to which the Reserve Bank agrees, except that the Reserve Bank may, in its discretion, obtain settlement by charging the paying bank's account. A paying bank may not set off against the amount of a settlement under this section the amount of a claim with respect to another cash item, cash letter, or other claim under § 229.34(c) of this chapter (Regulation CC) or other law.

(6) *Notice in lieu of return.* If a cash item is unavailable for return, the paying bank may send a notice in lieu of return as provided in § 229.30(f) of this chapter (Regulation CC).

(c) *Noncash items.* A Reserve Bank may require the paying or collecting bank to which it has presented or sent a noncash item to pay for the item in cash, but the Reserve Bank may permit payment by a debit to an account maintained or used by the paying or collecting bank on a Reserve Bank's books or by any of the following that is in a form acceptable to the collecting Reserve Bank: bank draft, transfer of funds or bank credit, or any other form of payment authorized by State law.

* * * * *

10. Section 210.10 is revised to read as follows:

§ 210.10 Time schedule and availability of credits for cash items and returned checks.

(a) Each Reserve Bank shall include in its operating circulars a time schedule for each of its offices indicating when the amount of any cash item or returned check received by it is counted as reserves for purposes of part 204 of this chapter (Regulation D) and becomes available for use by the sender or paying or returning bank. The Reserve Bank that holds the settlement account shall give either immediate or deferred credit to a sender, a paying bank, or a returning bank (other than a foreign correspondent) in accordance with the time schedule of the receiving Reserve Bank. A Reserve Bank ordinarily gives credit to a foreign correspondent only when the Reserve Bank receives payment of the item in actually and finally collected funds, but, in its discretion, a Reserve Bank may give immediate or deferred credit in accordance with its time schedule.

(b) Notwithstanding its time schedule, a Reserve Bank may refuse at any time to permit the use of credit given by it for any cash item or returned check, and may defer availability after credit is received by the Reserve Bank for a period of time that is reasonable under the circumstances.

11. In § 210.11, the last sentence of paragraph (b) is revised to read as follows:

§ 210.11 Availability of proceeds of noncash items; time schedule.

* * * * *

(b) * * * A Reserve Bank may, however, refuse at any time to permit the use of credit given by it for a noncash item for which the Reserve Bank has not yet received payment in actually and finally collected funds.

* * * * *

12. Section 210.12 is amended by revising paragraphs (a), (b), and (c)(1), the first sentence of paragraph (d), paragraphs (f) and (h), and the first sentence of paragraph (i); and by removing the last sentence of paragraph (g), to read as follows:

§ 210.12 Return of cash items and handling of returned checks.

(a) *Return of items*—(1) *Return of cash items handled by Reserve Banks.* A paying bank that receives a cash item from a Reserve Bank, other than for immediate payment over the counter, and that settles for the item as provided in § 210.9(b) of this subpart, may, before it has finally paid the item, return the item to any Reserve Bank (unless its Administrative Reserve Bank directs it to return the item to a specific Reserve Bank) in accordance with subpart C of part 229 of this chapter (Regulation CC), the Uniform Commercial Code, and the Reserve Banks' operating circulars. A paying bank that receives a cash item from a Reserve Bank also may return the item prior to settlement, in accordance with § 210.9(b) of this subpart and the Reserve Banks' operating circulars. The rules or practices of a clearinghouse through which the item was presented, or a special collection agreement under which the item was presented, may not extend these return times, but may provide for a shorter return time.

(2) *Return of checks not handled by Reserve Banks.* A paying bank that receives a check as defined in § 229.2(k) of this chapter (Regulation CC), other than from a Reserve Bank, and that determines not to pay the check, may send the returned check to any Reserve Bank (unless its Administrative Reserve Bank directs it to send the returned check to a specific Reserve Bank) in accordance with subpart C of part 229 of this chapter (Regulation CC), the Uniform Commercial Code, and the Reserve Banks' operating circulars. A returning bank may send a returned check to any Reserve Bank (unless its Administrative Reserve Bank directs it to send the returned check to a specific Reserve Bank) in accordance with subpart C of part 229 of this chapter (Regulation CC), the Uniform Commercial Code, and the Reserve Banks' operating circulars.

(b) *Handling of returned checks.* (1) The following parties, in the following order, are deemed to have handled a returned check sent to a Reserve Bank under paragraph (a) of this section—

(i) The paying or returning bank;

(ii) The paying bank's or returning bank's Administrative Reserve Bank;

(iii) The Reserve Bank that receives the returned check from the paying or returning bank (if different from the

paying bank's or returning bank's Administrative Reserve Bank); and

(iv) Another Reserve Bank, if any, that receives the returned check from a Reserve Bank.

(2) A Reserve Bank that is not described in paragraph (b)(1) of this section is not a party that handles a returned check and is not a returning bank with respect to a returned check.

(3) The identity and order of the parties under paragraph (b)(1) of this section determine the relationships and the rights and liabilities of the parties under this subpart, part 229 of this chapter (Regulation CC), and the Uniform Commercial Code.

(c) *Paying bank's and returning bank's agreement.* * * *

(1) Authorizes the paying or returning bank's Administrative Reserve Bank, and any other Reserve Bank or returning bank to which the returned check is sent, to handle the returned check (and authorizes any Reserve Bank that handles settlement for the returned check to make accounting entries) subject to this subpart and to the Reserve Banks' operating circulars;

* * * * *

(d) *Warranties by Reserve Bank.* By handling a returned check under this subpart, a Reserve Bank makes the returning bank warranties as set forth in § 229.34 of this chapter, subject to the terms of part 229 of this chapter (Regulation CC). * * *

* * * * *

(f) *Methods of recovery.* (1) The Reserve Bank may recover the amount stated in paragraph (d) of this section by charging any account on its books that is maintained or used by the paying or returning bank (or by charging another returning Reserve Bank), if—

(i) The Reserve Bank made seasonable written demand on the paying or returning bank to assume defense of the action or proceeding; and

(ii) The paying or returning bank has not made any other arrangement for payment that is acceptable to the Reserve Bank.

(2) The Reserve Bank is not responsible for defending the action or proceeding before using this method of recovery. A Reserve Bank that has been charged under this paragraph may recover from the paying or returning bank in the manner and under the circumstances set forth in this paragraph. A Reserve Bank's failure to avail itself of the remedy provided in this paragraph does not prejudice its enforcement in any other manner of the indemnity agreement referred to in paragraph (c)(3) of this section.

* * * * *

(h) *Settlement.* A subsequent returning bank or depositary bank shall settle with its Administrative Reserve Bank for returned checks in the same manner and by the same time as for cash items presented for payment under this subpart. Settlement with its Administrative Reserve Bank is deemed to be settlement with the Reserve Bank from which the returning bank or depositary bank received the item.

(i) *Security interest.* When a paying or returning bank sends a returned check to a Reserve Bank, the paying bank, returning bank, and any prior returning bank grant to the paying bank's or returning bank's Administrative Reserve Bank a security interest in all of their respective assets in the possession of, or held for the account of, any Reserve Bank, to secure their respective obligations due or to become due to the Administrative Reserve Bank under this subpart or subpart C of part 229 of this chapter (Regulation CC). * * *

By order of the Board of Governors of the Federal Reserve System, May 14, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–13028 Filed 5–19–97; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–28–AD]

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47K Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron, Inc. (BHTI) Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47K helicopters. This proposal would require installing a safety washer kit designed to preclude separation of the stabilizer bar damper link (damper link) if the damper link rod end bushing (bushing) loosens and exits the damper link rod end. This proposal is prompted by two reported incidences in which the bushings loosened and exited the damper link rod ends, allowing the damper link to slide over the retention bolt and separate from the stabilizer bar (in the first incident), and from the hydraulic damper (in the second incident). The actions specified by the proposed AD are intended to prevent failure of the stabilizer bar damper link assembly, which can result in degraded control response and subsequent loss of control of the helicopter.

DATES: Comments must be received by July 21,1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–28–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. Jurgen E. Priester, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5159, fax (817) 222–5960.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact

concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–SW–28–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–SW–28–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new AD that is applicable to BHTI Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47K helicopters. This proposal would require installing a safety washer kit designed to preclude separation of the damper link if the bushing loosens and exits the damper link rod end. This proposal is prompted by two reported incidences in which the bushings loosened and exited the damper link rod ends, allowing the damper link to slide over the retention bolt and separate from the stabilizer bar (in the first incident), and from the hydraulic damper (in the second incident). In the first incident, an inspection revealed that the rod end bearing had not been lubricated for an extended period of time prior to failure. In the second incident, a pilot safely landed the aircraft after reporting degraded control response. A post-flight inspection revealed that one damper link had separated from the hydraulic damper. A later inspection indicated that the bushing had not been properly roll-staked by the damper manufacturer. Therefore, one of the occurrences is attributed to a quality control problem with the damper link manufacturer. This condition, if not corrected, could result in failure of the stabilizer bar damper link assembly, which can result in degraded control response and subsequent loss of control of the helicopter.

The FAA has reviewed BHTI Alert Service Bulletin (ASB) No. 47–96–22, dated August 16, 1996, which describes procedures for removing and marking the stabilizer and damper link assemblies, installing a safety washer kit, part number (P/N) CA–047–96–022–1, applying a corrosion preventive compound, and reinstalling the stabilizer bar damper link assemblies. The ASB states that these actions are to be accomplished at the next 100-hour inspection, or no later than December 31, 1996. The FAA has determined that the compliance time should be within the next 100 hours time-in-service (TIS) or no later than 120 calendar days after the effective date of the AD, whichever occurs first.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTI Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47K helicopters of the same type design, the proposed AD would require, within the next 100 hours TIS or within the next 120 calendar days after the effective date of the proposed AD, whichever occurs first, removing and marking the stabilizer and damper link assemblies, installing a safety washer kit, P/N CA–047–96–022–1, applying a corrosion preventive compound, and reinstalling the stabilizer and damper link assemblies. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 1,868 helicopters of U.S. registry would be affected by this proposed AD, that it would take 1 work hour per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $188 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $463,264.

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

For the reasons discussed above, I certify that this proposed regulation (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

Bell Helicopter Textron, Inc.: Docket No. 96–SW–28–AD.

Applicability: Model 47B, 47B–3, 47D, 47D–1, 47G, 47G–2, 47G–2A, 47G–2A–1, 47G–3, 47G–3B, 47G–3B–1, 47G–3B–2, 47G–3B–2A, 47G–4, 47G–4A, 47G–5, 47G–5A, 47H–1, 47J, 47J–2, 47J–2A, and 47K helicopters, certificated in any category.

Note 1: This AD applies to each helicopter 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 helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required within the next 100 hours time-in-service or within the next 120 calendar days after the effective date of this AD, whichever occurs first, unless accomplished previously.

To prevent failure of the stabilizer bar damper link assembly, which can result in degraded control response and subsequent loss of control of the helicopter, accomplish the following:

(a) Remove the stabilizer bar damper link assemblies from the helicopter, install a

safety washer kit, part number (P/N) CA–047–96–022–1, and reinstall the stabilizer bar damper link assemblies onto the helicopter in accordance with the Accomplishment Instructions contained in Bell Helicopter Textron, Inc. Alert Service Bulletin No. 47–96–22, dated August 16, 1996.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Certification Office.

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

Issued in Fort Worth, Texas, on May 9, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–13083 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF COMMERCE

15 CFR Part 3

[Docket No. 960828234–7093–04]

RIN 0690–AA25

Empowerment Contracting

AGENCY: Department of Commerce.

ACTION: Proposed regulations; request for comment.

SUMMARY: The Department of Commerce is reissuing these proposed guidelines requesting public comment on policies and procedures intended to promote economy and efficiency in Federal procurement by grating qualified large businesses and qualified small businesses appropriate incentives to encourage business activity in areas of general and severe economic distress. This actions taken in accordance with the President's Executive Order entitled, "Empowerment Contracting." The standards and procedures set forth in these proposed guidelines serve as the basis for a proposed revision to the Federal Acquisition Regulation ("FAR"): Information obtained from public comment on these guidelines will be used to help draft the final Commerce and FAR regulations.

DATES: Comments must be submitted on or before July 21, 1997.

ADDRESSES: Comments may be mailed to the Department of Commerce, Office of the Assistant General Counsel for Finance and Litigation, Room 5896, 14th and Constitution Street, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Joe Levine, 202–482–1071.

SUPPLEMENTARY INFORMATION:

A. Background

On May 21, 1996, President Clinton issued Executive Order 13005, "Empowerment Contracting" (the "Order"). The purpose of the Order is to strengthen the economy and secure broad-based competition for Federal contracts by fostering growth of Federal contractors in economically distressed communities. In the Order, the President charged the Secretary of Commerce (the "Secretary"), in consultation with the Secretaries of Housing and Urban Development, Labor and Defense; and the Administrators of the General Services Administration, the National Aeronautics and Space Administration, the Small Business Administration, and the Office of Federal Procurement Policy, to develop policies and procedures to ensure that Federal agencies, when awarding contracts in unrestricted competitions, grant qualified large and small businesses appropriate price or evaluation incentives to encourage business activity in areas of general economic distress.

Specifically, the Order requires the Secretary to "develop policies and procedures to ensure that agencies, to the extent permitted by law, grant qualified large businesses and qualified small businesses appropriate incentives to encourage business activity in areas of general economic distress, including a price or a non-price evaluation credit, when assessing offers for government contracts in unrestricted competitions, where the incentives would promote the policy set forth in this Order." The Order also calls upon the Secretary to (1) monitor the implementation and operation of the procedures developed; (2) ensure proper administration of the program and reduce the potential for fraud by intended beneficiaries; (3) develop a process to evaluate the effectiveness of the procedures developed; and (4) issue an annual report to the President on the status and effectiveness of the program. In addition, the Secretary must ensure that all policies, procedures and regulations developed pursuant to the Order minimize the administrative burden on affected agencies and the procurement process.

On September 13, 1996, the Department published, in the **Federal Register**, its proposed Guidelines for implementing Executive Order 13005 (61 FR 48463). After several extensions, the period for public comment closed on January 6, 1997. These revised Guidelines, and the proposed amendments to the FAR, which were published on April 18, 1997 (62 FR 19200), for a 60 day public comment period, are based on comments received under that process and further internal analysis.

B. Public Comments

Comments were received from 40 commentors. They included businesses of all sizes, not-for-profit entities, industry and trade associations, Federal agencies, State and local governments and one member of Congress.

Federal agency comments included the following recommended revisions to the proposed guidelines:

(1) Firms should be required to have met the eligibility criteria prior to award of contracts. Eligibility based on prospective criteria will raise monitoring and compliance problems.

(2) If firms are required to meet the eligibility criteria prior to award of contracts, challenges to their status can be resolved prior to award.

(3) The initial test phase of six months is too short. It should be eighteen months.

(4) The third test of significant economic activity, "ownership", should be deleted as not relevant.

(5) Criteria should apply to areas, not an area.

(6) The areas of general economic distress should include labor surplus areas.

(7) The criteria for "eligibility" should not have ranges, but rather a fixed percentage and higher targets.

(8) The threshold for applicability is too low. It should be $1 million.

(9) Qualification should be based on pre-certifications, not a "showing".

(10) The incentives should be revised to reflect the increasing number of "best value" awards.

(11) The Department of Commerce needs to establish regulations to cover challenges of eligibility.

(12) The preferences/incentives should not be cumulative with incentives of other programs implemented through the procurement system. To allow cumulative preferences will encourage "front" companies.

(13) The incentives are too high. The application of cumulative incentives

will have an adverse impact on agency budgets.

A number of commentors suggested that special treatment be afforded to firms located in areas with particularly high levels of economic distress.

Other commentors, including several not-for-profits, expressed support for the program and suggested various technical adjustments. These comments included such recommendations as:

(1) The subcontracting criterion of 15% for the previous six months is too high as a criterion for significant economic activity.

(2) Employment percentages of 40% to 50% are achievable within the eligible areas.

(3) Certification and challenges should be delegated to local government economic agencies.

(4) The $100,000 threshold is too high. A lower threshold would offer more opportunities to small businesses.

(5) The incentives should be higher.

(6) Monitoring is essential to the success of the program.

(7) Firms track their data on a yearly basis, therefore, a six month first phase is inadequate.

(8) The definition for "not-for-profit" should be expanded to include government units, universities, and hospitals.

(9) Credit should be given for banking with minority firms.

(10) Preferences should be given to business enterprises owned by American Indian tribes, Alaskan natives, tribal or native-American corporations, and tribal organizations.

C. Guideline Revisions

Revisions have been made to the guidelines that respond to many of these comments. These changes will enhance the program while remaining consistent with the goals, policies and provisions of Executive Order 13005.

I. General

The guidelines have been reformatted to become a new part 3 to 15 CFR.

II. Definitions

The definitions pertaining to eligibility have been revised to refer to areas, rather than an area, to allow businesses to receive credit for economic activity in any eligible area.

Two additional definitions have been added. An "area of severe economic distress", is defined as any census tract that has a poverty rate of at least 50% A new category of firm, identified as an "eligible business", has also been established. An eligible business is a business, regardless of size, that meets any one of the three "significant" tests in an area of severe economic distress. These provisions recognize the goal of encouraging business activity in areas of very high poverty. The 50% poverty rate was chosen to set a higher standard for relaxed eligibility requirements for such businesses, because the benefit of relaxed qualification standards is appropriate only in areas of substantial deprivation. Initiating and sustaining private activity in areas of severe distress is essential to the economic recovery of those areas and it is felt that only through special consideration could such areas receive the benefits intended by this program.

Two separate processes have been established for firms to qualify for preferences. One process will enable business to qualify by self-certifying that they will meet prospective eligibility criteria. Such firms will be subjected to detailed reporting and audit requirements, and will be required to pay preference recoupment should they not meet the required levels of performance. In addition, the definitions were modified to measure the overall contribution of the business to economic activity in eligible areas, rather than tying such measures to a particular contract. Public comment is particularly requested on this change in measurement standard.

A second process was added to allow businesses to seek pre-qualification of eligibility to receive incentives under this program. For this new process the definitions are written to measure the businesses impact in eligible areas during the previous six months. This process was established to accommodate situations, such as provision of supplies and other manufactured items, where the product being sold was already in inventory, and sealed bid awards, where detailed reporting and post performance audits are not the norm.

Finally, the definitions pertaining to "significant physical presence" were revised to measure the number of employees working in eligible areas. It was decided that the original definition, which merely measured the percentage of physical plant in eligible areas, created too large a loophole in situations where firms might have large amounts of land devoted to such things as warehouses, storage and garages, where very little time was spent by employees.

III. Eligibility Processes

The processes under which businesses will establish their eligibility have been added. Firms seeking to self-certify will have to prepare plans setting forth how they plan to attain the necessary economic activity in eligible areas. The Department of Commerce, on its own initiative, or in response to challenges, will rule on the achievability of these plans. Firms seeking pre-qualification will submit the information required for the Department to decide on their request for pre-qualification.

IV. Challenges

An outline of the procedures the Department proposes to utilize to handle challenges is now set forth. Comments on its appropriateness, and any alternative mechanism are solicited.

V. Applicability

The simplified acquisition threshold (currently $100,000) has been retained. Any adjustment below this amount would create an administrative burden on agencies that would greatly outweigh the potential benefits of the program. No sound reason was perceived for raising the threshold for applicability.

VI. Incentive Structure

The comments regarding elimination of cumulative incentives have not been accepted. The Order requires that the incentives of this program be applied in addition to any incentives available under already existing programs. This provision was included to comply with the Administration's policy thrust that the Empowerment Contracting Program is to be used by all types of qualifying businesses in distressed areas, and not to negatively impact existing preference programs. Adding this Program and not allowing accumulation with other preferences would have a negative impact on businesses eligible for other preferences. A price preference of up to 10% or an evaluation preference of up to 15% will be available. The incentive provisions have been modified to accommodate the use of non-numeric selection procedures.

VII. Phased Implementation

In response to several comments, the length of the first phase has been revised from 6 months to 18 months. This longer period for phase one will allow for accumulation of a larger base of data regarding the effectiveness of the Program. Review of phase one will begin after 12 months. Eleven two digit Standard Industrial Code (SIC) major group identifiers have been selected for inclusion in phase one. These SIC codes were selected because they represent areas of business which are likely to have viability in eligible areas. Several were suggested by commentors. They represent a sufficiently broad base of activity that will facilitate matching the needs of a wide range of Federal

agencies with potential sources in eligible areas.

The goal of the first phase is to see if the Program is most effective luring current government contractors to distressed areas, luring businesses in growth industries to distressed areas, or encouraging sales for businesses located in distressed areas. Using a broad array of contracts in various industries over an 18 month period, will provide information to refine and expand the program.

D. Classification

It has been determined that these proposed guidelines are significant for purposes of Executive Order 12866 dated September 30, 1993. This is a major rule under 5 U.S.C. 804. Because these proposed guidelines relate to a matter of public property, loans, grants, benefits, or contracts, they are exempted from all the procedural requirements of the Administrative Procedure Act (5 U.S.C. 553). Because notice and comment are not required by 5 U.S.C. 553 or any other law, a Regulatory Flexibility Analysis is not required and was not done for purpose of the Regulatory Flexibility Act. However, an Initial Regulatory Flexibility Analysis (IRFA) was prepared in connection with the proposed FAR amendments and may be obtained from the FAR Secretariat.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid control number. This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. A request for approval of the paperwork burdens has been submitted to the Office of Management and Budget. These relate to the pre-qualification process, the self-certification process and the challenge procedures. These requirements are estimated to take, respectively, eight, two, and one hours, including the time to gather records, make copies, and mail documents to the Department of Commerce.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Comments on the collection of information burden may be sent to Joseph Levine, Room 5896, U.S. Department of Commerce, Washington DC 20230, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503.

List of Subjects in 15 CFR Part 3

Business and industry, Government procurement.

Therefore, it is proposed that a new 15 CFR part 3 be added to read as follows:

PART 3—EMPOWERMENT CONTRACTING

Sec.

Authority: Executive Order 13005 (61 FR 26069, May 24, 1996).

§ 3.01 Purpose.

The purpose of this part is to set forth the policies and procedures applicable to the Empowerment Contracting Program established by Executive Order 13005.

§ 3.02 Definitions.

(a) *General.*

(1) *Agency* means any authority of the United States that is an "agency" under 44 U.S.C. 3502(1), other than those considered independent regulatory agencies as defined in 44 U.S.C. 3502(10).

(2) *Area of general economic distress* means, for all urban and rural communities, any census tract that has a poverty rate of at least 20 percent or any designated Federal Empowerment Zone, Supplemental Empowerment Zone, Enhanced Enterprise Community, or Enterprise Community. *Area of general economic distress* also means any rural area or Indian reservation that currently meet the criteria for designation as a redevelopment area under section 401(a) of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3161(a)), as set forth at 13 CFR 301.2 (loss of population); 13 CFR 301.4 (Indian Lands) and 13 CFR 301.7 (special impact areas).

(3) *Area of severe economic distress* means any census tract that has a poverty rate of at least 50 percent.

(4) *Business* means the legal entity responsible for performance of the contract for which a preference is sought.

(5) *Qualified small business* means a small for-profit or not-for-profit trade or business that:

(i) Employs a significant number of residents from areas of general economic distress;

(ii) Has a significant physical presence in areas of general economic distress; or

(iii) Has a direct impact on generating significant economic activity in areas of general economic distress.

(6) *Qualified large business* means a large for-profit or not-for-profit trade or business that:

(i) Employs a significant number of residents from areas of general economic distress; and

(ii)(A) Either has a significant physical presence in areas of general economic distress or

(B) Has a direct impact on generating significant economic activity in areas of general economic distress.

(7) *Qualified eligible business* means any business that meets one of the following criteria:

(i) Employs a significant number of residents from areas of severe economic distress;

(ii) Has a significant physical presence in areas of severe economic distress; or

(iii) Has a direct impact on generating significant economic activity in areas of severe economic distress. (See §§ 3.04(b)(4) and 3.05(b)(4) for qualification procedures.)

(8) *Small Business* is defined by the definitions and procedures set forth by the Small Business Administration for determining size eligibility for government procurements. (13 CFR 121.901–911).

(9) *Small not-for-profit businesses*—Notwithstanding 13 CFR 121.403 (the SBA regulation that defines "business or concern" to mean for-profit entities) size determinations for not-for-profits entities will follow the same procedures as those of for-profit entities, i.e., the Standard Industrial Code (SIC) of the procurement will govern.

(10) *Large business* means any business that is not a small business.

(b) *Definitions applicable to Pre-Qualification.* The following definitions apply to businesses seeking pre-qualification based on their current operations:

(1) *Employs a significant number of residents from the area.* This means a

business which, during the six months preceding the date of its request for pre-qualification, has expended at least 25 percent of its total labor costs in wages and benefits to residents from areas of general economic distress.

(2) *Has a significant physical presence in the area.* This means a business with physical plant(s) in areas of general economic distress where, for the six months preceding the date of its request, at least 25 percent of the employees of the business perform their job. Employees will be considered to perform their job at the location where they spend the most time working, so long as it is at least 6 hours per work week.

(3) *Has a direct impact on generating significant economic activity in the area.* This means a business which.

(i) During the six months preceding the date of its request for pre-qualification, has expended at least 50 percent of its total labor costs in wages and benefits to residents from areas of general economic distress; or

(ii) During the six months prior to submitting its request for pre-qualification, has incurred at least 25 percent of its expenses on goods, materials, and services from firms located in areas of general economic distress.

(c) *Definitions for Self-Certification.* The following definitions apply to businesses which seek to self-certify their eligibility based on future operations:

(1) *Employs a significant number of residents from the area.* This means a business which, during the period of performance of the contract, will expend at least 25 percent of its total labor costs in wages and benefits to residents from areas of general economic distress.

(2) *Has a significant physical presence in the area.* This means a business with physical plant(s) in areas of general economic distress where, during the period of performance of the contract, at least 25 percent of the employees of the business will perform their job. Employees will be considered to perform their job at the location where they spend the most time working, so long as it is at least 6 hours per work week.

(3) *Has a direct impact on generating significant economic activity in the area.* This means a business which:

(i) During the period of performance of the contract, will expend at least 50 percent of its total labor costs in wages and benefits to residents from areas of general economic distress; or

(ii) During the period of performance of the contract, will incur at least 25 percent of its expenses on goods, materials, and services from firms located in areas of general economic distress.

§ 3.03 Eligible areas.

The Department of Commerce will maintain the official listing of eligible areas, based on the 1990 decennial Census of Population data. The listing shall contain the Census tract and block numbering for all eligible areas. This listing will be available on the internet at xxxxx@doc.gov.

§ 3.04 Self-Certification of Eligibility.

(a) When responding to solicitations, businesses may "self-certify" their qualifications at the time of submission of their proposal/bid, pursuant to the definitions set forth in § 3.02(c) of this part.

(b) At the time they self-certify their eligibility, businesses will be expected to have prepared a short description of their plan for achieving the requirements of this program. The description, which will be kept in their files, should contain sufficient detail to enable the Department to reach an informed judgment of the likelihood of the plan's success.

(1) For §§ 3.02(c)(1) and (c)(3)(i) the description should also identify the areas of general economic distress where employees will be recruited, the types of positions they will occupy, and evidence that those types of employees are available in sufficient quantity from those areas;

(2) For § 3.02(c)(2) the description should identify the areas of general economic distress where the physical plant(s) likely will we located, the types of plant that are required, evidence that such plants(s) are available, and the types and numbers of individuals who will be employed there;

(3) For § 3.02(c)(3)(ii) the description should identify the types of goods and services that likely would be purchased, and likely sources of those goods and services located in areas of general economic distress.

(4) For qualification under the definition of § 3.02(a)(7) as a "qualified eligible business", the information called for in paragraphs (b)(1)–(3) of this section should be supplied, substituting data for areas of severe economic distress for areas of general economic distress.

(c) The Department will conduct random reviews of the self-certifications submitted by businesses to verify their eligibility.

(d) If there is reason to believe that a business has submitted false information, withheld relevant information, or otherwise violated federal law, the matter will be promptly referred to the Department's Inspector General for investigation.

§ 3.05 Pre-Qualification for Eligibility.

(a) Upon request, the Department will issue certificates that businesses have met the pre-qualification requirement(s) set forth in § 3.026(b) of this part. Such requests shall be submitted to the Office of Empowerment Contracting, Rm xxxx, U.S. Department of Commerce, Washington, DC 20230.

(b) In addition to having available the full details of the documentation needed to establish their eligibility, businesses shall submit the following with their request:

(1) For qualification under § 3.02(b)(1), a summary of the number of employees of the firm, the number of employees living in areas of general economic distress, the wages and benefits paid to each group in the last six months, and a list of eligible areas in which employees live;

(2) For qualification under § 3.02(b)(2), the addresses of each of the businesses plants, indicating which are in areas of general economic distress, a brief description of the activities conducted at each site, and the number of employees who perform their job at each site;

(3)(i) For qualification under § 3.02(b)(3)(i), business should submit the same information as called for under § 3.05(b)(1) of this part;

(ii) For qualification under § 3.02(b)(3)(ii), the names and addresses of all firms located in areas of general economic distress from which the business has purchased goods, materials or services in the past six months, the dollar total of such purchases, and the dollar total of all goods, materials and services purchased by the business in the past six months.

(4) For qualification under the definition of § 3.02(a)(7) as a "qualified eligible business", the information called for in paragraphs (b)(1)–(3) of this section should be supplied, substituting data for areas of severe economic distress for areas of general economic distress.

(c) Businesses may submit requests for pre-qualification under, one, several or all of the above. If it is determined that they meet the requirements for § 3.02(b)(1) and either § 3.02(b)(2), (b)(3)(ii); or they meet one of the alternative tests to be a qualified eligible business, the Department will issue a certificate of eligibility. If a business meets one or more of the requirements of § 3.02(b) but does not meet all the requirements to be a qualified large

business or qualified eligible business, the Department will certify as to its pre-qualification under the requirements(s) it has met. This last certification will qualify them for participation in the program if they are a small business in the context of a particular procurement.

(d) Businesses receiving such certificates of pre-qualification may submit copies thereof in lieu of the self-certification of eligibility, when responding to solicitations.

(e) Any business may seek pre-qualification, however, it is likely that solicitations will have limitations on subcontracting or similar requirements that could affect their eligibility to receive an award.

(f) Determinations as to whether a firm is a small business will be made in the context of each particular solicitation, based on SBA procedures and the four digit SIC code applicable to that solicitation

(g) Pre-qualification certificates will be effective for one year from their date of issue.

(h) businesses shall notify the Department of Commerce of material changes that would affect their eligibility status (e.g. plant closing or major scale backs that would significantly alter their employment data or location).

(i) Upon receipt of a request, the Department will publish notice in the **Federal Register** seeking public comment. The notice will include the name of the requesting business, the definition(s) for which it seeks to pre-qualify, and the principal eligible areas from which employees are employed, in which plant are located, and/or goods and services have been obtained.

(j) After preliminary review of a request the Department will request such additional information as it believes necessary and/or conduct a site visit. The Department will issue or deny a request within 30 business days of receipt, or provide the business with the reason for delay and an expected decision date.

(k) Appeals of denials of requests for pre-qualification must be submitted, in writing within 30 working days of the date of the denial. The appeal should be addressed to Office of xxxx and explain why the decision was in error. The appellant will be notified, in writing, of the Department's final decision, which will also be entered into the Empowerment Contracting Database.

(l) If there is reason to believe that a business has submitted false information, withheld relevant information, or otherwise violated federal law, the matter will be promptly referred to the Department's Inspector General for investigation.

§ 3.06 Challenges—Self-Certification.

(a) An offeror may protest a concern's self-certification by filing a protest with the contracting officer in accordance with the procuring agency's protest procedures.

(b) The contracting officer or the Department of Commerce may protest a concern's self-certification at any time. The Department of Commerce protests a concern's self-certification by filing directly with its Office of EC and notifying the contracting officer.

(c) Upon receipt of a timely protest, the contracting officer shall withhold award and forward the protest to the Department of Commerce Office of EC, 14th and Constitution Ave. NW, Washington, DC. 20230. The contracting officer shall send to the Department of Commerce—

(1) The protest;

(2) The date the protest was received and a determination of timeliness;

(3) A copy of the protested concern's submittals regarding self-certification; and

(4) The date of bid opening or date on which notification of the apparently successful offeror was sent to unsuccessful offerors.

(d) When the contracting officer makes a written determination that award must be made to protect the public interest, award shall be made notwithstanding the protest.

(e) Upon receipt of notification that a challenge has been filed, the apparently successful offeror shall, by 5 p.m. of the business day following the date of receipt of the notice, submit to the Office of EC, rm xxxx U.S. Department of Commerce, Washington DC 20230, fax no. (202) 482–xxxx., a copy of its description called for in § 3.04(b). If the description is not received in a timely manner the challenge will be upheld.

(f) The Department will review the description, request any additional information it may require, and conduct on site verification if it is considered advisable, and allow the apparently successful offeror to submit such information as it may desire to refute the challenge. Based on this data the Department will determine whether the business is likely to achieve the performance required to qualify.

(g) The Department of Commerce, Office of EC, will determine the qualification status of the challenged offeror and notify the contracting officer, the challenged offeror, and the protestor. Award may be made on the basis of that determination. The determination is final for purposes of the instant acquisition, unless—

(1) It is appealed; and

(2) The contracting officer receives the Department of Commerce's decision on the appeal before award.

(h) If the contracting officer does not receive a Department of Commerce determination within 15 business days after the Department of Commerce's receipt of the protest, the contracting officer shall presume that the challenged offeror's self-certification is valid.

(i) A Department of Commerce determination may be appealed by the interested party whose protest has been denied; the concern whose status was protested; or the contracting officer. The appeal must be filed with the Department of Commerce's Office of EC within five business days after receipt of the determination. The appeal should contain significant evidence beyond that submitted previously.

(j) Following receipt of the appeal the Department will notify the other side (challenger or apparently successful offeror). Every effort will be made to issue a final decision prior to award of the contract in question.

(k) Both parties and the contracting officer will be notified, in writing, of the Department's final determination, which will be entered into the Empowerment Contracting Database.

§ 3.07 Challenges—Pre-Qualification.

(a) The Department reserves the right to revoke certificates of pre-qualification if it determines that there are material changes in a businesses eligibility status. Accordingly, anyone who has information that might indicate such a change in status is encouraged to submit it, in writing, to the Office of EC, rm. xxxx. U.S. Department of Commerce, at any time. In addition, an offeror may protest a concern's pre-qualification by filing a protest with the contracting officer in accordance with the procuring agency's protest procedures. The contracting officer or the Department of Commerce may protest a concern's pre-qualified status at any time. The Department of Commerce protests a concern's pre-qualification by filing directly with its Office of EC and notifying the contracting officer.

(b) Upon receipt of a timely protest, or other adverse information, the Department will decide whether it merits further investigation. If further action is justified the Department will request the pre-qualified firm to submit a response to the adverse information and conduct such other inquiry as it deems appropriate to ascertain whether there has been a material change in

circumstances that would justify revoking the pre-qualification.

(c) For protests concerning particular awards, the provisions of paragraphs (c), (d), (g), (h), (i), (j) and (k) of § 3.06 of this part shall apply.

(d) For challenges not covered by paragraph (c) of this section, the Department of Commerce, Office of EC, will notify the challenged business and the challenger, of its decision.

(e) Decisions to revoke pre-qualifications will become effective upon issuance and entered into the Empowerment Contracting Database.

(f) Appeals of decisions covered by paragraph (d) of this section, must be submitted, in writing within 30 working days of the date of the decision. The appeal should be addressed to Office of EC and explain why the decision was in error. The appellant will be notified, in writing, of the Department's final decision, which will be also be entered into the Empowerment Contracting Database.

(g) If there is reason in believe that a business has submitted false information, withheld relevant information, or otherwise violated federal law, the matter will be promptly referred to the Department's Inspector General for investigation.

§ 3.08 Applicability.

Subject to the provisions contained in § 3.11, these guidelines shall apply to unrestricted competitions for contracts exceeding the simplified acquisition threshold, other than those where performance will not take place in the United States.

§ 3.09 Incentive Structure.

(a) Incentives, in the form of price or non-price, shall be available in contracts subject to these guidelines. While applying these incentives, the Contracting Officer/Source Selection Official shall have the discretion to determine the size and type of incentive to apply to any particular procurement.

(b) Preferences in the form of incentives shall represent a price preference of up to 10 percent or an evaluation credit of up to 15 percent. For procurements in which source selection will be made on a non-numerical basis, the Contracting Officer/ Source Selection Official shall ensure that the incentive selected will be given sufficient weight to be meaningful.

(c) Any preference a business receives under these guidelines shall be added to the preferences it may receive pursuant to other statutory or regulatory programs.

§ 3.10 Monitoring and Evaluation.

Subject to the provisions of the "Phased Implementation of the Program" section of these guidelines, the Commerce Department, in conjunction with procuring agencies, shall monitor the process as follows:

(a) *Monitoring the Federal Procurement process.* We would expect that the benefit to the federal procurement system would begin to be realized during the latter years of phase two of the program. To assist in monitoring and evaluating the efficiency of this new program, agencies awarding contracts to qualified businesses shall provide the following information to the Department of Commerce:

(1) The number and dollar amount of solicitations in which an empowerment contracting preference was offered. This information will be broken down by SIC Major Group and by the use of the price evaluation preference and non-price evaluation factor;

(2) The contract numbers, dollar amounts, names of awardees, and price premiums paid (if identifiable) for awards made as a result of an empowerment preference. This information will be broken down by SIC Major Group;

(3) Comments on the advantages and disadvantages of the Empowerment Contracting Program, including comments on whether the program had any impact on the quality of supplies and services procured through its use.

(b) *Monitoring the impact on business development.* Evaluation criteria shall be established on national goals and objectives. A sample of businesses receiving contracts under the program would be examined with the following issues being addressed:

(1) Did the business locate or remain in a particular place so that it would be eligible for preferences under these guidelines?

(2) Did the business hire new workers or provide additional benefits to existing workers from eligible areas so that it would be eligible for preferences under these guidelines?

(3) Did the business purchase additional goods and services from firms located in eligible areas so that it would be eligible for preferences under these guidelines?

(4) Did the business propose to hire more workers in eligible areas as a result of bidding or proposing under the subject contract?

(5) Is this contract new work that the business would not have received but for this program?

(c)(1) *Monitoring the impact on distressed communities.* In order to examine impacts of the program on distressed communities, outcomes should be measured in the context of local conditions and community priorities, as well as broad national goals. The local vision for a community's transformation should provide the principal criteria for measuring local outcomes. The monitoring and evaluation process should have both an initial and a longer term phase. The principal objectives of the initial phase would be to:

(i) Establish baseline measurements of demographics, economic indicators, physical infrastructure conditions and needs, and social conditions;

(ii) Identify local outcome measures and common national measures toward which long-term evaluation will be directed, including employment, crime, education, and poverty; and

(iii) Develop a strategy and mechanism for evaluating progress toward local and national goals over time.

(2) The longer-term evaluation should have the capacity to answer fundamental questions about the efficacy of targeted Federal contracting, specifically its ability to revitalize distressed communities and to improve the social and economic well-being of residents. This phase will examine such questions as:

(i) To what extent does the program create or improve the quality of jobs and economic opportunities in the distressed area?

(ii) To what extent does the program result in new businesses locating in the community or increased rates of business retention in the community?

(iii) To what extent does the program affect areas outside the distressed community by either connecting residents with opportunities in the larger community or by increasing growth in the larger areas?

(iv) How have the changes in these communities affected the jurisdictions in which they are located?

(v) How have areas (and residents) adjacent to the distressed communities been affected?

(vi) At what cost have these outcomes been achieved? The evaluation must ultimately provide an empirical basis for assessing program costs relative to benefits.

(vii) How effectively does the program interact with other government programs designed to promote the development of economically distressed communities?

(d) In monitoring the program, the Department of Commerce may request additional information to the extent that it deems appropriate.

§ 3.11 Phased Implementation of the Program.

(a) *First phase—eighteen month period.* The guidelines will apply initially, during a first phase of eighteen months' duration, only to contracts involving industries whose two digit Standard Industrial Classification ("SIC") Code major group identifiers are listed below. Each agency will establish procedures to ensure that the Empowerment Contracting program is applied to approximately 25 percent of the dollar value of its eligible procurements in these SIC codes, and will inform the Department of Commerce as to how it will ensure that this is done.

(b) At the end of the first year of the program, the Department of Commerce, in coordination with the agencies listed in Executive Order 13005, will evaluate the program and develop any necessary changes to improve performance. The revised procedures will become effective in the second phase.

(c) The two digit SIC code major group identifiers to which the first phase will apply are:

15—Construction
20—Food and Kindred Products
23—Apparel and Other Textile Products
25—Furniture and Fixtures
27—Printing and Publishing
30—Rubber and Miscellaneous
34—Fabricated Metal Products
42—Trucking and Warehousing
51—Wholesale Trade and Durable Goods
73—Business Services
87—Management Consulting Services

(d) *Second phase—further implementation.* Further implementation of the order will be instituted in the second phase of the program, which will begin after the first phase of the program has ended, and will extend for a period of 5 years. If the evaluation of phase one so justifies, the second phase of the program will applied to a larger number of contracts within selected two digit SIC Code industries involved in competitive Federal procurements, consistent with efficient administration of the program and the development of new sources of supplies and services. Industries included in the second phase will be identified in advance of being included. The efficacy of the program will be monitored and evaluated during the second phase, subject to the criteria set forth in the "Monitoring and Evaluation" section of these guidelines. At the end of this five-year period, the Department of Commerce in consultation with the agencies designated in the Executive Order will ascertain whether the program is meeting its goals. Specifically, it will be determined whether the program stimulated economic activity (through, among other things, job creation or new business investment) in areas of general economic distress and benefited the federal procurement system. If the program meets these objectives, it will be expanded to other selected industries for similar implementation and evaluation.

William M. Daley,

Secretary of Commerce.

[FR Doc. 97–13182 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–17–M

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Parts 718, 722, 725, 726 and 727

RIN 1215–AA99

Regulations Implementing the Federal Coal Mine Health and Safety Act of 1969, as Amended; Notice of Public Hearings

AGENCY: Employment Standards Administration, Labor.

ACTION: Proposed rule; Notice of Public Hearings.

SUMMARY: The Employment Standards Administration (ESA) will hold public hearings on its proposed regulations implementing the Black Lung Benefits Act. The proposed regulations reflect the program's suggestions for change in the processing and adjudication of individual claims for black lung benefits. The proposal also revises the criteria governing the responsibility of coal mine operators to secure the payment of benefits to their employees and reflects many decisions issued by the Benefits Review Board and U.S. courts of appeals over the past thirteen years. ESA proposed these regulations with the goal of improving services, streamlining the adjudication process and updating the regulations' content. The purpose of the hearing is to receive comments on the proposed changes.

DATES: A hearing will be held on Thursday, June 19, 1997, in Charleston, West Virginia, from 9 a.m. to 5 p.m. A second hearing will be held in Washington, DC with the procedures, date and time to be announced in a later notice. Requests to make oral presentations for the record at the first hearing should be received by Friday, June 13, 1997. Any unallotted time at the end of the hearing will be made available to persons present and wishing to speak who have not made timely requests.

ADDRESSES: The first hearing will be held at the Charleston Civic Center, 2nd Floor, 200 Civic Center Drive, Charleston, West Virginia 25301. Requests to make oral presentations should be sent to James L. DeMarce, Director, Division of Coal Mine Workers' Compensation, Room C–3520, Frances Perkins Building, 2000 Constitution Avenue, NW., Washington, DC 20210, FAX Number 202–219–8568.

FOR FURTHER INFORMATION CONTACT: James L. DeMarce, Director, Division of Coal Mine Workers' Compensation, (202) 219–6692.

SUPPLEMENTARY INFORMATION: On January 22, 1997, ESA published a proposed rule (62 FR 3338–3435) intended to amend and revise the regulations implementing the Black Lung Benefits Act, subchapter IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. The comment period originally closed on March 24, 1997, but was extended through May 23, 1997 by subsequent notice (62 FR 8201 (Feb. 24, 1997)). The comment period was extended once again through August 21, 1997.

The Department has received requests for public hearings from the United Mine Workers of America, the National Black Lung Association and the National Mining Association. These organizations represent both individuals and companies with a strong interest in the proposed regulations. The Department deems it desirable to provide the interested community with the opportunity to make oral comment on the proposed regulations.

The first hearing will be conducted in an informal manner by an ESA official. The formal rules of evidence will not apply. The Department may ask questions of expert or technical witnesses. The order of appearance of persons making presentations will be determined by the Agency. The presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and in ensuring the orderly progress of the hearing. The hearing will provide the opportunity for members of the public to make oral presentations. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Individuals with disabilities, who need special accommodations, should contact James L. DeMarce by Friday, June 13, at the address indicated in this notice.

Verbatim transcripts of the proceedings will be prepared and made a part of the rulemaking record. ESA will also accept additional written comments and other appropriate data

from any interested party, including those not presenting oral statements, until expiration of the comment period on August 21, 1997. Written comments and data submitted by ESA will be included in the rulemaking record.

Signed at Washington, DC, this 15th day of May, 1997.

Gene Karp,

Deputy Assistant Secretary for Employment Standards.

[FR Doc. 97–13166 Filed 5–19–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–252665–96]

RIN 1545–AU82

Intangibles Under Sections 1060 and 338; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to purchase price allocations in taxable asset acquisitions and deemed asset purchases.

DATES: The public hearing originally scheduled for Thursday, May 22, 1997, beginning at 10:00 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 1060 and 338 of the Internal Revenue Code. A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing appearing in the **Federal Register** on Thursday, January 16, 1997 (62 FR 2335), announced that the public hearing on proposed regulations under sections 1060 and 338 of the Internal Revenue Code would be held on Thursday, May 22, 1997, beginning at 10:00 a.m., in the Commissioner's Conference Room, Room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW. Washington, D.C.

The public hearing scheduled for Thursday, May 22, 1997 is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–13125 Filed 5–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3400, 3410, 3420, 3440, 3450, 3460, 3470, 3480

[WO–320–1320–02–1A]

RIN 1004–AD11

Coal Management Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Advance notice of proposed rulemaking; reopening of comment period.

SUMMARY: The Bureau of Land Management (BLM) is reopening for 60 additional days the comment period for the advance notice of proposed rulemaking (ANPR) concerning the revision of its regulations governing coal operations on Federally leased lands. BLM published the ANPR on April 9, 1997. The reopening is in response to a request from a representative of interested parties for additional time to provide information.

DATES: BLM will accept comments until 5 p.m. Eastern time on July 21, 1997. BLM will not necessarily consider comments received after this time in developing the proposed rule or include them in the administrative record.

ADDRESSES: Commenters may mail written comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, NW, Washington, DC 20240; or hand-deliver written comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C. Comments will be available for public review at the L Street address from 7:45 a.m. to 4:15 p.m. Eastern time, Monday through Friday, excluding Federal holidays. See the **SUPPLEMENTARY INFORMATION** section for the electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Bill Radden-Lesage, (202) 452–0350 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing Address

Commenters may transmit comments electronically via the Internet to: WOComment@wo.blm.gov. Please submit comments as an ASCII file and avoid the use of special characters or encryption. Please include your name and address in your message. If you do not receive a confirmation from the system that we have received your Internet message, contact the Administrative Record at (202) 452–5030.

On April 9, 1997, BLM published an advance notice of proposed rulemaking requesting comments to assist in the revision of its regulations governing coal operations on Federally leased lands. Interested persons were given 30 days, until May 9, 1997, to submit comments. See 62 FR 17141 for additional information and public comment procedures.

BLM has received a request from the National Mining Association for a 60-day extension of the comment period. The request states that an extension would allow the organization to conduct additional research, gathering, and evaluation of quantitative information necessary to document changes in the electric utility industry. After careful consideration of the request, BLM has decided to accept comments for an additional 60 days. Because the original 30-day comment period has now closed, we are reopening, rather than extending, the comment period on the ANPR.

Dated: May 14, 1997.

Sylvia V. Baca,

Assistant Secretary for Land and Minerals Management.

[FR Doc. 97–13198 Filed 5–19–97; 8:45 am]

BILLING CODE 4310–84–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 24

[GEN Docket No. 90–314; ET Docket No. 92–100; PP Docket No. 93–253; FCC 97–140]

Narrowband Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This *FNPRM* addresses eligibility and service area issues for the narrowband Personal Communications Services (narrowband PCS) channels and response channels, proposes changes to the Commission's build-out requirements, proposes a partitioning and disaggregation scheme, and proposes modifications to certain provisions of narrowband competitive

bidding rules. The Commission believes that these proposed changes will serve the public interest, promote competition in the wireless services market, allow incumbents to expand their systems, increase buildout flexibility and simplify licensing and competitive bidding procedures.

DATES: Comments are to be filed on or before June 18, 1997; reply comments are to be filed on or before July 7, 1997.

FOR FURTHER INFORMATION CONTACT: Alice Elder or Mark Bollinger at (202) 418–0660 (Wireless Telecommunications Bureau/Auctions Division) or David Furth or Rhonda Lien at (202) 418–0620 (Wireless Telecommunications Bureau/ Commercial Wireless Division).

SUPPLEMENTARY INFORMATION: This is a summary of the *FNPRM* in GEN Docket No. 90–314, ET Docket No. 92–100 and PP Docket 93–253, adopted April 17, 1997 and released April 23, 1997. The complete text of the FNPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington DC and also may be purchased from the Commission's copy contractor, International Transcription Services (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Synopsis of the Notice of Proposed Rule Making

Further Notice of Proposed Rule Making

I. Discussion

A. Background

1. In the narrowband PCS *First Report and Order*, 58 FR 42681 (August 11, 1993), the Commission provided for operation of new, narrowband PCS in the 900 megahertz (MHz) band. The Commission broadly defined PCS as mobile and fixed communications offerings that serve individuals and businesses, and can be integrated with a variety of competing networks. In the *First Report and Order*, the Commission therefore declined to adopt a restrictive definition of narrowband PCS, such as limiting this category of PCS to advanced messaging and paging services. The Commission also adopted a spectrum allocation and channelization plan, licensing rules, and technical standards for narrowband PCS. Consistent with section 309(j) of the Communications Act of 1934, as amended, the Commission has determined that PCS is subject to competitive bidding in the case of mutually exclusive applications.

2. In the *Competitive Bidding Second Report and Order*, 59 FR 22980 (May 4, 1994) the Commission adopted general competitive bidding rules for auctionable services. In the *Competitive Bidding Third Report and Order*, 59 FR 26741 (May 24, 1994), the Commission established competitive bidding rules specifically for narrowband PCS. On reconsideration of that *Order*, the Commission revised certain auction processing rules, expanded special provisions for designated entities in future narrowband auctions, and sought comment on additional designated entity provisions for the upcoming narrowband PCS auction. Of the three MHz of spectrum allocated for narrowband PCS, two one-MHz blocks are currently divided into specific channels for immediate licensing. The remaining one MHz of narrowband PCS spectrum currently is reserved to accommodate future development of narrowband PCS.

3. The Commission thus far has conducted two auctions for narrowband PCS licenses. As a result of these two auctions, ten nationwide narrowband PCS licenses and six regional narrowband PCS licenses in five different regions (totalling 30 regional licenses) have been issued. Auctions have not yet been conducted for the narrowband PCS spectrum currently designated for licensing in 51 Major Trading Areas (MTAs) and 493 Basic Trading Areas (BTAs). In addition, the 204 MTA licenses and 1,968 BTA licenses designated as unpaired response channels also have not been auctioned.

B. Service Rules

4. The Commission believes that the channelization plan for narrowband PCS provides a flexible framework that will foster its goals of universality, speed of deployment, diversity of services, and competitive delivery. In the narrowband PCS *First Report and Order*, 58 FR 42681 (August 11, 1993), the Commission found that a mix of paired, unpaired, and varying bandwidths would provide the most flexible solution for meeting the stated needs of narrowband PCS providers. The Commission determined that while there appears to be interest in providing narrowband PCS services across a wide range of local, regional, and nationwide licensed service areas, the bulk of demand is for large regional or nationwide licensed service areas.

5. Thus, the Commission set aside the majority of narrowband PCS spectrum for nationwide and MTA-based licensing. In addition, the Commission recognized that a variety of narrowband PCS services could be offered on a local level. As a result, the Commission's initial channelization plan for narrowband PCS consisted of 26 channels allocated as follows: 11 channels for nationwide use, 13 channels for use on an MTA basis, and two channels for use on a BTA basis. The Commission also set aside eight unpaired channels with BTA service areas for use by existing 900 MHz paging licensees as acknowledgement or response channels.

6. In the narrowband PCS *Memorandum Opinion & Order*, 59 FR 37163 (July 21, 1994), the Commission modified its initial channelization plan in two respects. First, the Commission determined that while regional service areas based on MTAs contain sufficient population and geographic area to support economically viable PCS services, a continued need existed for an additional category of licenses with a service area smaller than a nationwide area, but larger than an individual MTA. Therefore, the Commission designated six paired channels for licensing in five large regions to better reflect the technologies and business plans of the licensees desiring to implement large regional narrowband PCS systems. Second, the Commission determined that licensing some of the eight unpaired channels for use by existing 900 MHz paging licenses on an MTA basis would make it easier for operators of local and regional paging systems to upgrade and coordinate their operations. Thus, four of the paging response channels are currently licensed using MTA service areas and four using BTA service areas.

7. In the *Competitive Bidding Third Memorandum Opinion & Order/ FNPRM*, 59 FR 44058 (August 26, 1994), the Commission proposed to redesignate channels 25 and 26, which currently are licensed on a BTA basis, as regional licenses with the same service areas described in § 24.102 of the Commission's rules. *See* 47 CFR 24.102. The proposed redesignation of channels 25 and 26 was an outgrowth of the Commission's concern that designated entities interested in narrowband PCS licenses may desire service areas larger than MTAs and BTAs. In this connection, the Commission recognized that over half of the bidders who participated in the nationwide auction would have qualified for an entrepreneurs' block license if it had been available. Thus, the Commission sought comment on whether it should redesignate some or all of the channels licensed on a BTA basis, including the response channels licensed on a BTA basis, to be licensed on an MTA basis,

or take other means to achieve larger license areas. The Commission also permitted MTA and BTA service areas to be aggregated up to and including nationwide coverage.

8. The Commission believes the record provides support for reconfiguring the service area size of the remaining narrowband PCS channels. First, the Commission shares the concern of commenters that the BTA service areas in particular are too small to provide a viable narrowband service. The Commission's experience with similar services suggests that larger licensing areas may be more suitable to the actual configuration of narrowband systems. For example, the Commission recently adopted MTA-based licensing for the 929 MHz and 931 MHz paging bands, which are likely to be directly competitive with narrowband PCS. The Commission also believes that narrowband PCS could be licensed using larger areas without compromising the goal of ensuring entry for small businesses. An illustrative comparison is provided by the 900 MHz Specialized Mobile Radio (SMR) auction, which was MTA-based, in which 60 out of 80 high bidders are small businesses.

9. There may also be additional demand to provide narrowband PCS on a regional or nationwide basis. In the PCS *First Report and Order*, the Commission agreed with commenting parties that regional and nationwide service areas in narrowband PCS would provide economies of scale and should alleviate some of the problems licensees have experienced when they have tried to aggregate smaller license areas. In the previous narrowband PCS auctions, a number of bidders for the regional licenses aggregated their licenses into nationwide service, and several nationwide licenses were aggregated by a single licensee. Moreover, the large number of regional and nationwide paging systems in the 929 and 931 MHz paging bands suggests that the market for this level of coverage is dynamic and competitive.

10. Based on these factors, the Commission believes that its prior proposal for reconfiguring the service areas of the remaining narrowband PCS channels should be expanded by eliminating all BTA licensing and instead using a combination of MTAs, regional licensing areas, and nationwide licensing. The Commission agrees with those commenters who argue that reallocating some of the response channels for use in larger service areas will facilitate the upgrade of existing paging networks. Specifically, the Commission proposes to (1) redesignate the two remaining 50 kHz paired channels as nationwide channels; (2) establish one nationwide, three regional, and one MTA-based channel pairs from the five 50/12.5 kHz channel pairs; and (3) convert the four BTA-based 12.5 kHz unpaired response channels to regional channels. By designating these larger service areas, the Commission seeks to give companies, including designated entities, the opportunity to establish a viable narrowband service and to provide regional and nationwide service if circumstances warrant. The Commission requests comment on this proposal and on any possible alternative service area combinations. In particular, commenters should comment on the effect of licensing in larger areas on opportunities for entry and competition by small businesses. The Commission also seeks comment on whether local participation in narrowband PCS by smaller businesses could occur through partitioning or disaggregation arrangements with MTA-based, regional, and nationwide PCS licensees, thus affording more opportunities to serve smaller areas.

11. The Commission also seeks comment on what effect increasing the service area size of as-yet unlicensed channels will have on existing narrowband PCS licenses. Although some commenters argue that using larger areas would devalue their licenses, the Commission notes that they were licensed over two years ago, which would appear to reduce the impact of subsequent licensing. In addition, as noted above, numerous paging licensees have established nationwide and regional systems that already provide competition for narrowband PCS. Finally, the Commission notes that the goal of its spectrum policy is not to preserve the value of the licenses that auction winners acquire, but to promote competition and service in the public interest. The Commission therefore seeks comment on whether its proposals are equitable to existing licensees, and whether they would assist new entrants in offering services to the public in a more efficient manner.

C. Allocation of Reserve Spectrum

12. In the PCS *First Report and Order*, the Commission allocated three MHz for narrowband PCS. Specifically, the narrowband PCS spectrum was allocated into three one-MHz bands, with two MHz of this spectrum divided into specific channels and available for immediate licensing. At that time, the Commission determined that the service proposals for narrowband PCS did not require use of the entire narrowband PCS spectrum allocation. The Commission retained the flexibility to channelize and license the remaining one MHz of spectrum for expanded narrowband PCS licensing opportunities as the service developed. Subsequently, several commenters to the *Competitive Bidding Third Memorandum Opinion and Order*, 59 FR 44058 (August 26, 1994), raised the issue of the reserve narrowband PCS spectrum and requested that the Commission immediately channelize and license it.

13. The Commission believes that channelizing and licensing the reserve narrowband PCS spectrum will serve the public interest by facilitating competition, opening the market to new entrants, and allowing existing narrowband PCS licensees to expand their systems through access to additional spectrum. Therefore, the Commission tentatively concludes that the one MHz of spectrum that it reserved in the PCS *First Report and Order* should now be channelized and licensed. The Commission seeks comment on this tentative conclusion. The Commission also seeks comment on whether the reserve narrowband PCS spectrum should be channelized for additional narrowband PCS paired-channel use, or whether a greater need exists for narrowband PCS unpaired channels. The Commission also seeks comment on the way in which it should allocate this spectrum. For example, the Commission could authorize three licenses: two 300-kHz licenses and one 400-kHz license. The Commission requests comment on whether another allocation would be preferable.

14. Additionally, the Commission requests comment on the narrowband PCS aggregation limit and whether it should be modified in light of this proposal. Narrowband PCS is not subject to the commercial mobile radio service (CMRS) spectrum cap. However, a single licensee is only permitted to hold licenses for up to three 50 kHz channels, either paired or unpaired. This limit is based on the total narrowband PCS spectrum held by a licensee through nationwide, regional and local licenses at any geographic point. In light of the Commission's proposal to open and license the narrowband PCS reserve spectrum, the Commission seeks comment on whether these aggregation limits on narrowband PCS spectrum are sufficient, or whether it needs to modify, increase or eliminate such aggregation limits.

D. Construction and Coverage Requirements

15. When designing competitive bidding systems, section 309(j)(3) of the

Communications Act states, in part, that "the Commission shall include safeguards to protect the public interest in the use of the spectrum. . . ." 47 CFR 309(j)(3). In addition, section 309(j)(4)(B) states that the Commission shall include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services. 47 U.S.C. 309(j)(3).

16. Pursuant to section 309(j), the Commission has previously adopted performance requirements in the form of minimum coverage requirements for narrowband PCS. 47 U.S.C. 24.103. Specifically, nationwide narrowband PCS licensees must provide coverage to a composite area of 750,000 square kilometers or serve 37.5 percent of the U.S. population within five years of their license grants, and must provide coverage to a composite area of 1,500,000 square kilometers or serve 75 percent of the U.S. population within ten years of license grant. Regional licensees must cover 150,000 square kilometers or serve 37.5 percent of the population in their licensing areas within five years, and must cover 300,000 square kilometers or serve 75 percent of the regional population within ten years. MTA licensees must cover 75,000 square kilometers or serve 25 percent of the MTA population in five years, and must cover 150,000 square kilometers or serve 75 percent of the MTA population in ten years. 47 CFR 24.103.

17. Since the Commission adopted these coverage requirements for narrowband PCS in 1994, it has moved towards a more flexible approach to coverage requirements in other services. For example, in the paging rulemaking, the Commission provided that paging licensees can either meet population coverage benchmarks (one-third of licensing area population within three years of the license grant, and two-thirds of the population within five years) or may meet their performance requirement by demonstrating that they are providing "substantial service" in the licensing area within five years of the license grant. Substantial service is defined as "service that is sound, favorable, and substantially above a level of mediocre service, which would barely warrant renewal." In the Wireless Communications Service (WCS), the Commission concluded that the unique circumstances in that case, including an aggressive deadline for auctions and exceedingly strict technical requirements necessary to prevent interference, necessitated still more flexible performance requirements. WCS licensees are thus required to provide substantial service to their service areas within ten years. *Report and Order*, 62 FR 9636 (March 3, 1997). The substantial service standard may be met in WCS by providing coverage to 20 percent of the population where mobile service is provided, or four permanent links per one million people in its licensed service area, or by an alternative demonstration of substantial service by the licensee.

18. In light of these developments in other services, the Commission believes it should revisit the narrowband PCS coverage requirements to ensure that they continue to be justified. The Commission believes it is appropriate at a minimum to treat narrowband PCS and paging similarly in this respect: narrowband PCS licensees operate on adjacent bands to the 900 MHz paging licensees, and the Commission has previously observed the close, potentially competitive relationship between the two services. The Commission proposes to conform its narrowband PCS rules to its paging rules by allowing narrowband PCS licensees to meet their performance requirements through a demonstration of substantial service as an alternative to meeting the coverage requirements provided under the existing rules. The Commission seeks comment on this proposal and whether an alternative coverage standard based on geographic areas remains necessary if it adopts a "substantial service" alternative as proposed above.

19. The Commission also seeks comment on whether, in addition to adopting a substantial service option, it should modify its existing narrowband PCS coverage benchmarks. One option would be to conform these requirements to newly adopted requirements for geographic area paging. For example, the initial population coverage benchmark for narrowband PCS MTA licensees is 25 percent at five years, while the benchmark for MTA-based paging is two-thirds coverage at five years. This may reflect differences in technology in the two services or that paging channels already are substantially built out by incumbents, whereas narrowband PCS licensees are only beginning their buildout process. At ten years, MTA-based narrowband PCS licensees must achieve 75 percent population coverage or cover 150,000 square kilometers, whereas paging licensees are not subject to any further coverage benchmark after five years. The Commission seeks comment on whether the existing benchmarks for MTA-based narrowband PCS licensees are appropriate compared to its paging requirements. Commenters should also discuss applicable coverage requirements for regional and nationwide narrowband PCS licensees.

20. The Commission also seeks comment on whether it should eliminate all coverage requirements for narrowband PCS. As wireless competition evolves, narrowband PCS is likely to face significant competition not only from other narrowband CMRS providers, including paging and 220 MHz licensees, but also from broadband CMRS providers who have the ability to use a portion of their spectrum to offer "narrowband" services such as paging and messaging. Commenters should address whether market forces alone will provide sufficient incentives for narrowband PCS licensees to construct facilities and provide valuable new services to the public. In this regard, the Commission notes that build-out requirements may encourage the provision of service to areas that would not necessarily receive service expeditiously solely through the operation of market forces. In addition, build-out requirements may also prevent stockpiling or warehousing of spectrum by allowing licenses to be recovered and made available to entities more willing and able to provide service expeditiously. On the other hand, simply requiring construction by itself does not ensure that licenses are put to use in an efficient and pro-competitive manner. Moreover, construction requirements alone may not be effective to ensure the provision of service to rural areas, because they can have the unintended consequence of causing licensees to build first in urban areas where the mandatory benchmarks could be met most cheaply, and thus may actually slow the development of service to rural areas.

21. The Commission is obligated under section 309(j) of the Communications Act to take sufficient measures to "ensure prompt delivery of service to rural areas." 47 U.S.C. 309(j)(4)(B). Because narrowband PCS has already been licensed on a nationwide and regional basis, and other competing services such as paging are widely available throughout the U.S, including rural areas, imposing coverage requirements with the specific intent of promoting rural service may be unnecessary. In addition, the Commission's decisions relating to partitioning and disaggregation in narrowband PCS should increase the potential for service to rural or

underserved areas. The Commission seeks comment on the potential impact of eliminating coverage benchmarks on service to rural or underserved areas. Commenters should address whether the auction and service rules that the Commission is adopting and proposing here constitute effective safeguards and performance requirements for narrowband PCS licensing.

E. Auction Design

22. The *Competitive Bidding Third Report and Order,* 59 FR 26741 (May 24, 1994), established simultaneous multiple round auctions as the methodology for awarding narrowband PCS licenses. In light of the experience gained from the nationwide narrowband PCS auction, the Commission later revised or clarified provisions governing minimum opening bids, activity rules, pre-auction procedures, the release of bidder information, and collusion. The Commission generally reaffirms the auction methodology adopted for narrowband PCS, but seeks comment on whether modifications should be made to the overall auction design adopted for narrowband PCS. Additionally, having now completed thirteen auctions under the competitive bidding authority granted by Congress and recently having initiated a rule making to revise our general auction rules, in this *FNPRM* the Commission revisits certain provisions governing the general bidding procedures for narrowband PCS that it believes require revision.

1. Activity Rules

23. In order to ensure that simultaneous multiple round auctions close within a reasonable period of time and to increase the information conveyed by bid prices during the auction, it is necessary to impose an activity rule to prevent bidders from waiting until the end of the auction before participating. The Commission determined in the *Competitive Bidding Third Report & Order,* 59 FR 44058 (August 26, 1994) that the Milgrom-Wilson activity rule would be used in conjunction with a simultaneous stopping rule to award narrowband PCS licenses.

24. The Commission determined in the *Competitive Bidding Third Report and Order* that a waiver procedure would apply, whereby bidders would be permitted five automatic waivers from the activity rule during the course of an auction. In the *Competitive Bidding Third Memorandum Opinion & Order/FNPRM,* the Commission modified the waiver procedure for the narrowband PCS auctions and allowed one automatic waiver during each stage of an auction, or one automatic waiver during a number of bidding rounds specified by Public Notice. The Commission noted that while proactive waivers would keep the bidding open, under no circumstances would an automatic waiver prevent an auction from closing.

25. With respect to broadband PCS auctions, the Commission initially determined that only proactive waivers, and not automatic waivers, would keep an auction open. In that context, however, the Commission later modified the rule by retaining the discretion to keep an auction open even if no new acceptable bids and no proactive waivers are submitted in a single round. The Commission observed that this would facilitate the rapid completion of the auction by permitting the Commission to use larger bid increments, thereby speeding the auction pace without risking a premature auction close.

26. The Commission proposes for narrowband PCS that it retain the same discretion as it has in the broadband PCS auctions to keep an auction open even if no new acceptable bids and no proactive waivers are submitted in a single round. The Commission tentatively concludes that this provision will allow the completion of the narrowband PCS auction in a timely and efficient manner. The Commission seeks comment on whether this modification of its activity and stopping rules is appropriate.

2. License Grouping

27. In the *Competitive Bidding Third Report and Order,* the Commission determined that choosing which licenses to auction simultaneously requires a judgment about the degree of interdependence of the licenses, *i.e.*, the extent to which the amount the bidders are willing to pay for one license depends on the price of another. The Commission auctioned the nationwide narrowband PCS licenses in a simultaneous multiple round auction. The Commission then auctioned the five regional blocks for a total of 30 licenses together in one simultaneous multiple round auction. The Commission decided to conduct a third simultaneous multiple round auction for all of the 50/50 kHz paired, 50/12.5 kHz paired, and the 50 kHz unpaired MTA licenses for a total of 357 licenses and, after the MTA licenses are auctioned, to conduct another simultaneous multiple round auction for the 50/12.5 kHz paired BTA licenses for a total of 986 licenses.

28. In light of the channel reallocation the Commission adopts herein, it tentatively concludes that it will conduct one auction for the remaining narrowband PCS spectrum that has been allocated. The Commission reserves the right, however, to auction each category, *i.e.*, nationwide, regional, MTA of the channels adopted separately. As a result of its proposal, the Commission considers the issue raised by commenters that BTAs should be auctioned before MTAs to be moot. The Commission seeks comment on this proposal. The Commission also seeks comment on whether it should auction certain categories together if it decides to conduct more than one auction for the remaining narrowband PCS spectrum, *e.g.*, nationwide and regional.

3. Auction Design for Response Channels

29. There are 204 MTA 12.5 kHz unpaired response channel licenses and 1,968 BTA 12.5 kHz unpaired response channel licenses. In the *Competitive Bidding Third Report and Order,* the Commission decided to auction the 12.5 kHz unpaired MTA and BTA response channel licenses in a single round sealed bid auction because it determined the value of the licenses to be low relative to the cost of conducting more complex auctions. Moreover, because only incumbent paging licensees are eligible to bid on these licenses, it believed that sealed bid auctions would help to reduce the chances of collusion among the limited number of bidders. However, petitioners convinced the Commission that paging response channel licenses may have more interdependency and higher value than was apparent at the time of its decision in the *Competitive Bidding Third Report and Order.* In addition, the Commission stated in the *Competitive Bidding Third Memorandum Opinion & Order/FNPRM* that the nationwide narrowband auction demonstrated simultaneous multiple round auctions are easier and less expensive to implement than anticipated. Thus, the Commission deferred its decision regarding auction design for the paging response channels.

30. The Commission proposes to auction the paging response channels in one simultaneous multiple round auction, but reserves the option of auctioning these channels with the remaining narrowband PCS licenses. The Commission now has the experience necessary to conduct a large simultaneous multiple round auction in an administratively efficient manner. In addition, in balancing the advantages of simultaneous multiple round bidding with the greater complexity that this method entails, the Commission believes that it is the most appropriate

auction methodology for these auctions, because of the high value of most narrowband PCS licenses and the significant interdependence between spectrum blocks and geographic regions. The Commission seeks comment on this proposal.

4. Auction Design for Reserved Spectrum

31. The Commission seeks comment on the manner in which it should auction the one MHz of reserved spectrum. Specifically, the Commission seeks comment on whether it should use its current narrowband PCS rules, as set forth in part 24 of its rules or whether other rules should be adopted to auction this spectrum. In addition, the Commission seeks comment on whether or not it should auction the reserve spectrum in conjunction with other narrowband spectrum. The Commission additionally seeks comment on whether there should be any special provisions for small businesses, and if so, whether to adopt the small business size definition and the special provisions proposed herein.

F. Treatment of Designated Entities

1. Overview of Adarand Constructors, Inc. v. Peña

32. The Commission has employed in its narrowband PCS auction rules a wide range of special provisions and eligibility criteria designed to meet the statutory objectives of providing opportunities to small businesses, rural telephone companies, and businesses owned by members of minority groups and women, collectively known as "designated entities." Notably, the special provisions adopted for designated entities in the two narrowband PCS auctions completed thus far produced varied results. In the nationwide narrowband PCS auction, the Commission provided a 25 percent bidding credit for businesses owned by members of minority groups and/or women. No designated entities won licenses in this auction. Although other factors could have caused this result, the bidding credit of 25 percent proved insufficient to assist designated entities in obtaining nationwide narrowband PCS licenses when no other provisions were provided. The Commission considered the results of the nationwide narrowband auction when contemplating the provisions that would govern the regional narrowband PCS auction and raised the bidding credit to 40 percent for businesses owned by members of minority groups and/or women. In addition, the Commission implemented an installment payment plan for businesses owned by members of minority groups and women. Designated entities were more successful in the regional narrowband PCS auction, winning all of the licenses for which a bidding credit was provided for designated entities. In total, designated entities won 11 of the 30 licenses offered in the regional narrowband auction. Specifically, four of the nine winners in the entire auction were designated entities that qualified as small businesses owned by members of minority groups and/or women.

33. At the time the Commission's narrowband PCS rules were adopted, an intermediate scrutiny standard of review was applied to federal race- and gender-based programs. In *Adarand Constructors* v. *Peña*, 115 S. Ct. at 2113, the Supreme Court held that all racial classifications, whether imposed at the federal, state or local government level, must be analyzed by a reviewing court under a strict scrutiny standard of review. This standard requires such classifications to be narrowly tailored to further a compelling governmental interest. In *VMI*, United States v. Commonwealth of Virginia, ____ U.S. __, 116 S.Ct. 2264 (1996), the Supreme Court reviewed a state program containing gender classification and held it was unconstitutional under an intermediate scrutiny standard of review. This standard requires that "[p]arties who seek to defend gender-based government action must demonstrate an 'exceedingly persuasive justification' for that action." Under this test, the government must show "at least that the [challenged] classification serves 'important governmental objectives and that the discriminatory means employed' are 'substantially related to the achievement of those objectives.'" *VMI*, 116 S. Ct. at 2274. While the Supreme Court has not directly addressed constitutional challenges to federal gender-based programs since *Adarand* and *VMI*, the Commission's review of the relevant broad language in *VMI* indicates that the Court does not differentiate between federal and state official actions in its equal protection analysis. Similarly, the *Adarand* decision definitively eliminated any distinction between federal and state race-based programs in setting its strict scrutiny standard of judicial review. Therefore, the Commission concludes that any gender-based preference maintained in the narrowband PCS auction rules would need to meet the *VMI* intermediate scrutiny standard of review.

34. The *Adarand* decision potentially affects three race- and gender-based measures in the Commission's narrowband PCS auction rules and proposals. First, the Commission's attribution rules enable an applicant in which women or minorities hold 50.1 percent of the equity while another investor holds 49.9 percent of the equity to obtain special status as businesses owned by minorities or women. Second, businesses owned by minorities or women and small businesses owned by minorities or women receive larger bidding credits than other designated entities. Finally, the *Competitive Bidding Third Memorandum Opinion & Order/FNPRM* proposes that small businesses owned by minorities or women receive the most favorable installment payment options available. The purpose of these provisions was to address the lack of access to capital problem that the Commission's record showed women and minorities face.

35. The Commission tentatively concludes that the present record in support of its race-based narrowband PCS rules lack sufficient evidentiary support to withstand strict scrutiny. The Commission seeks comment on its tentative conclusion and whether its provisions promote a compelling governmental interest and, more particularly, whether compensating for discrimination in lending practices and in practices in the communications industry constitutes such an interest. The Commission also asks interested parties to comment on nonremedial objectives that could be furthered by the minority-based provisions of its rules and whether they could be considered compelling governmental interests, such as increased diversity in ownership and employment in the communications industry or increased industry competition. In commenting, the Commission asks parties to submit statistical data, personal accounts, studies, or any other data relevant to the entry of specific racial groups into the field of telecommunications. Examples of relevant evidence could include discrimination against minorities trying to obtain FCC licenses; discrimination against minorities seeking positions of ownership or employment in communications or related businesses; discrimination against minorities attempting to obtain capital to start up a telecommunications enterprise, including terms and conditions; and discrimination against minorities operating telecommunications businesses, including treatment by vendors and suppliers.

36. With respect to the Commission's gender-based provisions, the Commission seeks comment on whether there are remedial or nonremedial goals that would satisfy the "important

governmental objective" requirement of the intermediate scrutiny standard. Are the Commission's gender-based rules "substantially related" to the achievement of such objectives? Just as the Commission requested above, in addressing evidence to support the narrowband race-based provisions, it asks parties to submit statistical data, personal accounts, studies, or any other data relevant to the entry of women into the field of telecommunications. The Commission is also interested in supplementing the current record to support race- and gender-based provisions in its other rules. In this regard, the Commission initiated a comprehensive rule making proceeding to explore market barriers to women- and minority-owned businesses, as well as small businesses, pursuant to section 257 of the Communications Act. The record created in response to this *FNPRM* will also be incorporated into that docket.

37. Based on the Commission's tentative conclusions, it proposes to offer only race- and gender-neutral provisions for narrowband PCS. The Commission proposes that bidding credits and installment payments should be made available to small businesses—including those owned by minorities and women.

2. Eligibility for Bidding Credits and Installment Payments

a. Small Business Definition

38. *In the Competitive Bidding Second Memorandum Opinion & Order*, 59 FR 44272 (August 26, 1994), the Commission stated that it would define eligibility requirements for small businesses on a service-specific basis, taking into account the capital requirements and other characteristics of each particular service. In the recently adopted *Part One NPRM*, 62 FR 13540 (March 21, 1997), it proposed to continue this practice. Once small business eligibility requirements are defined, however, the Commission proposed in the *Part One NPRM* to adopt uniform schedules of bidding credits and installment payments that would determine the level of benefits provided to small businesses. For the regional narrowband PCS and broadband PCS auctions, the Commission believed that build-out and operational costs would be high and adopted a small business threshold of $40 million. More recently, the Commission have adopted a "tiered" approach for determining small business eligibility. For instance, for the 900 MHz Specialized Mobile Radio (SMR) service it adopted a two-tiered system for determining eligibility for bidding credits, reduced down payments, and installment payment plans.

39. The Commission proposes to limit eligibility for bidding credits and installment payments to small businesses. The Commission proposes a "two-tiered" approach in defining small businesses, based on a $40 million and $15 million definition. Currently, it has a $40 million small business definition. Businesses with gross revenues of not more than $40 million may have significantly greater difficulty in obtaining capital than larger enterprises. At the same time, a company with $40 million in revenue is sufficiently large that it could survive in a competitive wireless communications market. The Commission believes that "small businesses," as defined by the Commission's proposal, will be at a disadvantage in competing against large companies. Accordingly, the Commission proposes to enhance special provisions for small businesses by creating an additional category, very small business entities, with a $15 million threshold.

40. The Commission seeks comment on these proposals. Specifically, are $40 million and $15 million appropriate thresholds? Are such tiers necessary to ensure that small businesses, including those owned by minorities and women, have the opportunity to participate in providing service on an MTA, regional, and nationwide basis? Should the thresholds be higher or lower, based on the types of companies that are likely to benefit from the special provisions proposed below? Also, should different definitions of small businesses be used for different channel blocks? For example, should the threshold for nationwide licenses be higher than the threshold for regional licenses?

b. Attribution

41. To ensure that only bona fide small businesses avail themselves of the special provisions provided to them, the narrowband PCS rules requires the Commission to consider the gross revenues of the applicant, its affiliates, and all "attributable" investors in the applicant on a cumulative basis. The attribution rules established for narrowband PCS count the gross revenues of all investors in, and affiliates of, an applicant on a cumulative, fully-diluted basis for purposes of determining whether the $40 million gross revenue threshold for small businesses has been exceeded. In addition, an applicant will not qualify as a small business if any one attributable investor in, or affiliate of, the entity has $40 million or more in personal net worth. There are two exceptions, however. First, applicants that meet the definition of a small business may form consortia of small businesses that, on an aggregate basis, exceed the gross revenue cap. Second, if the applicant forms a "control group," the gross revenues, personal net worth, and affiliations of any investor in the applicant are not considered so long as the investor holds 25 percent or less of the applicant's passive equity, is not a member of the applicant's control group, and the control group holds at least 25 percent of the applicant's equity.

42. The Commission also established in the *Competitive Bidding Third Memorandum Opinion & Order/FNPRM* a relaxed attribution standard for women- and minority-owned businesses. Under this standard, the gross revenues or net worth of any single investor in a minority- or woman-owned small business applicant that is not a member of the applicant's control group is not attributable unless it holds more than 49.9 percent of the passive equity of the applicant. The control group must (1) own at least 50.1 percent of the applicant's equity, (2) retain control and hold at least 50.1 percent of the voting stock, and (3) consist entirely of minorities and/or women or entities 100 percent owned and controlled by minorities and/or women. The gross revenues and net worth of each member of the control group and each member's affiliates are counted toward the gross revenue threshold or the individual $40 million individual net worth limitation, regardless of the size of the member's total interest in the applicant. These provisions were intended to address the special problems of women and minorities in obtaining financing due, in part, to discriminatory lending practices by private financial institutions.

43. The Commission proposes replacing the "control group" structure established for narrowband PCS in the *Competitive Bidding Third Memorandum Opinion and Order* with simpler structural and control requirements. In determining whether an applicant qualifies as a small business in the narrowband PCS auction, the Commission will consider the gross revenues of the small business applicant, its affiliates, and certain investors in the applicant. Specifically, for purposes of determining small business status, the Commission will attribute the gross revenues of all controlling principals in the small business applicant as well as the gross revenues of affiliates of the applicant. The Commission also chooses not to

impose specific equity requirements on the controlling principals that meet its small business definition.

44. The Commission will still require, however, that in order for an applicant to qualify as a small business, qualifying small business principals must maintain "control" of the applicant. The term "control" would include both *de facto* and *de jure* control of the applicant. For this purpose, the Commission would borrow from certain Small Business Administration (SBA) rules that are used to determine when a firm should be deemed an affiliate of a small business. Typically, *de jure* control is evidenced by ownership of 50.1 percent of an entity's voting stock. *De facto* control is determined on a case-by-case basis. An entity must demonstrate at least the following indicia of control to establish that it retains *de facto* control of the applicant: (1) The entity constitutes or appoints more than 50 percent of the board of directors or partnership management committee; (2) the entity has authority to appoint, promote, demote and fire senior executives that control the day-to-day activities of the licensees; and (3) the entity plays an integral role in all major management decisions. While the Commission is not imposing specific equity requirements on the small business principals, the absence of significant equity could raise questions about whether the applicant qualifies as a bona fide small business. The existence of special small business provisions requires the Commission to adopt the provisions set forth herein in order to prevent their improper use. Accordingly, the Commission seeks comment on whether it should count the gross revenues and assets only of controlling principals in the applicant to determine small business eligibility. The Commission also seeks comment on whether there is a more appropriate attribution standard for determining size.

45. The Commission also proposes to eliminate the $40 million individual net worth limitation currently applicable in the Commission's narrowband PCS rules. The Commission eliminated the personal net worth limits for broadband PCS. In that context, the Commission determined that the obstacles faced by minorities and minority-controlled businesses in raising capital are not necessarily confined to minorities with limited personal net worth. Rather than eliminating the personal net worth limits for minorities only, however, it eliminated the requirement for all applicants because such limits are difficult to apply and enforce. The Commission seeks comment on whether the individual net worth limitation should be eliminated for narrowband PCS.

3. Bidding Credits

46. Bidding credits allow eligible designated entities to receive a payment discount for their winning bid in an auction. In the *Competitive Bidding Third Report and Order*, the Commission determined that women and minorities would receive a 25 percent bidding credit for three nationwide channels, two regional channels, three MTA channels, and one BTA channel. After considering the outcome of the nationwide narrowband auction in which no designated entities won licenses, the Commission increased the bidding credit on the designated regional licenses from 25 percent to 40 percent In addition, the Commission proposed in the *Competitive Bidding Third Memorandum Opinion & Order/ FNPRM* to provide bidding credits in the proposed entrepreneurs' blocks that would give small businesses a 10 percent bidding credit, women and minority-owned businesses a 15 percent credit, and small businesses owned by women and minorities an aggregate credit of 25 percent.

47. Taking into account the recent *Adarand* decision and the Commission's decision to redesignate the remaining narrowband channel blocks into larger license areas, the Commission proposes to eliminate the bidding credit scheme adopted in the *Competitive Bidding Third Report and Order* and subsequently modified in the *Competitive Bidding Third Memorandum Opinion & Order/ FNPRM*. The Commission proposes instead to extend a bidding credit to all small businesses on a "tiered" basis consistent with its proposal in the *Part One NPRM*. The Commission proposes that small businesses with gross revenues of not more than $15 million for the preceding three years be entitled to a 15 percent credit and small businesses with gross revenues of not more than $40 million for the preceding three years be entitled to a 10 percent bidding credit. Bidding credits for small businesses will not be cumulative. Thus, a $15 million small business will be eligible for only a 15 percent credit, not a 25 percent credit.

48. The Commission recognizes that this proposal would enhance the competitiveness of small businesses, which will receive a bidding credit that they did not receive previously. The Commission tentatively concludes, however, that extending the bidding credit to small businesses will achieve the objectives of Congress by providing small businesses, including women-owned and minority-owned small businesses, a meaningful opportunity to obtain licenses in the narrowband PCS auction. The Commission tentatively concludes that the redesignation of channel blocks into larger geographic license areas would increase the value of the licenses by allowing larger firms to bid on licenses that will enable wide-area service. As a result, the Commission believes that small businesses would require additional bidding enhancements in order to participate in the auction.

49. The Commission further recognizes that this bidding credit would be less than the bidding credit previously made available to minority- and women-owned businesses in the *Competitive Bidding Third Report and Order* and the *Competitive Bidding Third Memorandum Opinion & Order/ FNPRM i.e.*, 25 percent for selected nationwide and 40 percent for selected regional licenses. However, the Commission believes that a lower bidding credit, combined with the installment payments will provide sufficient opportunities for small businesses to compete for the licenses. Furthermore, tiered bidding credits are narrowly tailored to the varying abilities of businesses to access capital. Thus, the Commission believes that tiering will account for the fact that smaller businesses, which often include businesses owned by minorities and women, have more difficulty accessing capital and thus need a more substantial bidding credit.

4. Payment Matters

50. The current narrowband PCS rules provide installment payments for small businesses and businesses owned by members of minority groups and/or women bidding for any of the BTA, MTA, or regional narrowband PCS licenses. The terms and conditions of the installment payments follow those set forth in the Commission's general Part 1 rules, entitling eligible licensees to pay their winning bid amount in installments over the term of the license, with interest charges to be fixed at the time of licensing at a rate equal to the rate for ten-year U.S. Treasury obligations. Qualified licensees would make interest-only payments during the first two years of the license term.

51. In light of the *Adarand* decision, for other services the Commission has adopted a "tiered" approach to implementing installment payment plans, which is based solely on the financial status of licensees. Most recently, in the *Broadband PCS Report and Order*, the Commission adopted a

tiered installment plan for the D, E, and F block broadband PCS licenses, but limited the interest payment period to two years. 61 FR 33859 (July 1, 1996). In the earlier 900 MHz *Second Order on Reconsideration/Seventh Report and Order*, 60 FR 48913 (September 21, 1995), the Commission adopted a tiered installment payment plan for 900 MHz SMR licensees.

52. The Commission tentatively concludes that quarterly installment payments are appropriate for small businesses acquiring licenses for narrowband PCS. Installment payments will provide financial assistance to all small businesses. By allowing payment in installments, the government is in effect extending credit to licensees, thus reducing the amount of private financing needed prior to the auction. Such government financing will promote participation by small businesses that, because of their size and lack of access to capital, need such incentives to participate in new spectrum opportunities such as narrowband PCS.

53. The installment payment plan the Commission proposes today is consistent with the plans set out in the proposed schedule in the *Part One NPRM*. Small businesses with gross revenues that are not more than $40 million for the preceding three years would be required to pay interest only for the first two years of the license term at the Treasury note rate plus 2.5 percent. Very small businesses with gross revenues that are not more than $15 million for the preceding three years would be able to make interest-only payments for two years at the Treasury note rate without the additional 1.5 percent. In both cases, i.e., small businesses with gross revenues of not more than $40 million and not more than $15 million, payment of principal and interest will be amortized over the remaining eight years of the license term and be payable in equal, quarterly payments. Timely payment of all quarterly installments would be a condition of the license grant, and failure to make such timely payment could ultimately be grounds for revocation of the license. The Commission seeks comment on this proposal. The Commission also seeks comment on alternative installment payment plans.

54. Consistent with its recent proposal in the *Part One NPRM*, the Commission seeks comment on whether it should adopt a late payment fee on any installment payment that is overdue. Payments would be applied in the following order: late charges, interest charges, principal payments. Thus, a licensee who makes payment after the due date but does make payment sufficient to pay the late fee, interest, and principal (only if principal is due), will be deemed to have failed to make full payment and will be subject to license cancellation pursuant to the Commission's rules. The Commission tentatively concludes that such a late payment provision is necessary to ensure that licensees have an adequate financial incentive to make installment payments on time. It notes that licensees would continue to have 90 days before a payment is deemed delinquent but a late payment fee would be assessed during this period. It also notes that in the *Part One NPRM* it proposed that where a winning bidder misses the second down payment deadline and fails to remit the required payment (plus the applicable late fee) by the end of the late payment period, it would be declared in default and subject to applicable default payments. The Commission seeks comment on the applicability of this proposal within the context of narrowband PCS.

55. Under § 1.2110(e)(4)(ii) of the Commission's rules, interest that accrues during a grace period will be amortized over the remaining term of the license. Amortizing interest in this way has the effect of changing the amount of all future payments and requiring the Commission, or its designee, to generate a new payment schedule for the license. Changing the amount of the installment payment has, in turn, created uncertainty about the interest schedule, and increased the administrative burden by requiring formulation of a new amortization schedule. In order to avoid potential problems associated with changing the amount of installment payments and consistent with its proposal in the *Part One NPRM*, the Commission proposes to require all current licensees who avail themselves of the grace period to pay all fees, all interest accrued during the grace period, and the appropriate scheduled payment with the first payment made following the conclusion of the grace period. The Commission seeks comment on this proposal.

5. Unjust Enrichment, Holding Period and Transfer Restrictions

56. Under current rules for narrowband PCS, licensees that receive bidding credits and installment payments, and choose to transfer their licenses to entities not eligible for these benefits, are subject to certain restrictions. Entities seeking to transfer a license acquired through a bidding credit are required to repay the amount of the bidding credit on a graduated basis until six years after the license grant. Similarly, if a small business making installment payments seeks to transfer a license to a non-small business entity during the term of the license, it must pay the remaining principal balance as a condition of the license transfer. The ineligible transferee would not have the benefit of installment payments.

57. The Commission later sought comment on revising these provisions in the *Competitive Bidding Third Memorandum Opinion & Order/ FNPRM*. With regard to bidding credits, the Commission proposed that if, within the original 10 year term, a licensee applies to assign or transfer control of a license to an entity that is not eligible for as high a level of bidding credit, then the assignor would be required to pay to the U.S. Treasury the difference between the bidding credit obtained by the assignor and the bidding credit for which the acquiring party would qualify as a condition of transfer. Similarly, a sale to an entity that would not qualify for bidding credits would entail full repayment of the original bidding credit as a condition of transfer. With regard to installment payments, the Commission proposed to retain the unjust enrichment provisions adopted in the *Competitive Bidding Third Report and Order* and clarified these provisions, noting that if an entity seeks to assign or transfer control of a license to an entity that does not qualify for as favorable an installment payment plan, the installment payment plan for which the acquiring entity qualifies would become effective immediately upon transfer. Thus, a higher interest rate and earlier payment of principal may begin to be applied.

58. In the *Competitive Bidding Third Memorandum Opinion & Order/ FNPRM*, the Commission also proposed that entrepreneurs' block licensees be prohibited from voluntarily assigning or transferring control of their licenses for a period of three years from the date of grant. The Commission asked commenters whether, for the next two to seven years of the license term, it should permit the licensee to assign or transfer control of its authorization only to an entity that satisfies the entrepreneurs' blocks entry criteria. During this limited transfer period, licensees would continue to be bound by the financial eligibility requirements, and a transferee or assignee who receives an entrepreneurs' block license during this period would remain subject to the transfer restrictions for the balance of the holding period. The Commission recognized that in order to provide significant opportunities for

entrepreneurs and small businesses, applicants require flexibility. The Commission was concerned, however, that such flexibility would undermine the more fundamental objective to ensure that designated entities retain *de facto* and *de jure* control of their companies. Thus, the Commission proposed a holding and limited transfer period to address this concern.

59. The Commission now seeks further comment on the applicability of unjust enrichment, assignment, and transfer restrictions to the Commission's proposed narrowband PCS rules, as they apply to designated entities. The Commission tentatively concludes that the unjust enrichment provisions already applicable to narrowband PCS will ensure that large businesses do not become the unintended beneficiaries of provisions intended to benefit small firms. The Commission thus proposes unjust enrichment restrictions as applied to bidding credits and installment payments, similar to the existing restrictions for narrowband PCS. Specifically, the Commission proposes that if a small business that has received bidding credits or is making installment payments seeks to transfer a license to a non-small business entity during the term of the license, it will be required to reimburse the government for the amount of the bidding credit plus interest or the remaining principal balance on the license, respectively, as a condition of the license transfer. The Commission seeks comment on this proposal. The Commission also seeks comment on whether it should eliminate the service-specific unjust enrichment rule for narrowband PCS in favor of the rule proposed in the *Part One NPRM*, which conforms to the broadband PCS unjust enrichment rules. Furthermore, in light of the Commission's decision not to establish an entrepreneurs' block for narrowband PCS, the Commission tentatively concludes that it is not necessary to propose holding and transfer restrictions for the licenses. The Commission seeks comment on this tentative conclusion.

6. Partitioning

60. The Commission recently adopted a detailed framework for revising the geographic partitioning and spectrum disaggregation rules for broadband PCS. In particular, it modified the rules to (1) allow broadband PCS licensees in the non-entrepreneurs' blocks to partition any portion of their license area or disaggregate any portion of their spectrum post-auction to entities that are eligible to be a broadband licensee, (2) allow entrepreneurs' block licensees to partition and/or disaggregate during the first five years of the license term any portion of their licensed geographic area and/or spectrum post-auction to entities that qualify as "entrepreneurs" and are eligible to be broadband PCS licensees, (3) establish license term provisions that permit partitioned license holders (partitionees) to hold partitioned licenses for the duration of the original ten year license term, and (4) establish flexible construction requirements to ensure expedient access to broadband PCS service in partitioned areas. The Commission concluded that these rules would facilitate the efficient use of the broadband PCS spectrum, increase competition, and expedite the provision of broadband PCS service to areas that may not otherwise receive broadband PCS or other wireless services in the near term.

61. In light of the Commission's decision to redesignate narrowband PCS MTA and BTA channel blocks to create larger service areas, it believes that a partitioning proposal for narrowband PCS is warranted. The Commission proposes a geographic partitioning scheme similar to that adopted for broadband PCS. Under this proposal, anyone eligible to be a narrowband PCS licensee, *i.e.*, "qualifying entity," would be allowed to acquire a partitioned license. This more liberal partitioning policy would allow spectrum to be used more efficiently, speed service to underserved areas, and increase competition. The Commission seeks comment on this proposal. Specifically, the Commission seeks comment on whether a partitioning scheme should be available to all qualifying entities, or limited to rural telephone companies as in the initial broadband PCS rules.

62. The Commission proposes to allow all narrowband PCS licensees to partition at any time to any entity eligible for an narrowband PCS license. It notes that small businesses and others may face certain barriers to entry into the provision of spectrum-based services which, it believes, may be addressed by changes in the partitioning rules. The Commission tentatively concludes that providing narrowband PCS licensees with the flexibility to partition their geographic service areas would create smaller areas that could be licensed to small businesses, including those entities which previously may not have had the resources to participate successfully in spectrum auctions. The Commission also tentatively concludes that partitioning may provide a funding source that would enable licensees to construct their systems and provide the latest in technological enhancements to the public. The Commission seeks comment on these tentative conclusions. In particular, commenters are invited to address whether the partitioning scheme will help eliminate market entry barriers for small businesses pursuant to section 257 of the Communications Act.

63. The Commission further proposes that a partitionee be authorized to hold its license for the remainder of the original ten-year license term. It tentatively concludes that this term is appropriate because a licensee, through partitioning, should not be able to confer greater rights than it was awarded under the terms of its license grant. The Commission solicits comment on this proposal.

64. It seeks comment on what should be the respective obligations of the participants in a partitioning arrangement. First, with respect to scope of narrowband PCS partitioned areas, the Commission tentatively concludes that a flexible approach, similar to the one it adopted for broadband PCS, is appropriate for narrowband PCS licenses. Therefore, the Commission proposes to permit partitioning of narrowband PCS licenses based on any geographic area defined by the parties to a partitioning arrangement. The Commission seeks comment on this proposal, and in particular on whether this proposal is consistent with its licensing of narrowband PCS spectrum, and whether there are any technical or other issues unique to narrowband PCS that might impede the adoption of a flexible approach to defining partitioned license areas.

65. Second, with respect to construction requirements, the Commission seeks comment as to which party should be held responsible for satisfying outstanding construction requirements. In this *FNPRM*, the Commission has proposed construction requirements for geographic narrowband PCS licensees at the five-year and ten-year benchmarks, including a "substantial service" benchmark. In the *Partitioning and Disaggregation Report and Order*, the Commission adopted two construction options for partitioning broadband PCS licensees which give the parties the flexibility to choose how to apportion the responsibility to build out the partitioned license areas. The Commission tentatively concludes that a similar approach is appropriate for the narrowband PCS context. Thus, it proposes two options for meeting the applicable narrowband PCS construction requirements in a partitioning arrangement: (1) The partitionee can certify that it will satisfy the same construction requirements as

the original licensee with the partitionee meeting the requirements in its partitioned area and the partitioner being responsible for satisfying the requirements in the area it has retained; or (2) the original licensee can certify that it has already met or will meet its five-year construction requirement and that it will meet the 10-year requirement for the entire market involved. The Commission also proposes to require that the parties to such partitioning arrangements file supporting documentation showing compliance with the applicable construction requirements. The Commission seeks comment on these proposals. It also seeks comment on whether, and if so, how the option of partitioning could be extended to incumbent narrowband PCS licensees as well.

66. Consistent with the rules for broadband PCS, the Commission proposes to establish separate installment payment and default obligations for the small business licensees and partitionees. When a licensee paying its winning bid through installment payments partitions to a party that would qualify for installment payments, the partitionee will be permitted to make installment payments of its *pro rata* portion of the remaining government obligation. The payments will be based on the ratio of the population of the partitioned area to the population of the entire license area calculated on the latest available census data. Partitionees that do not qualify for installment payments will be required to pay their entire *pro rata* share with 30 days of the Public Notice conditionally granting the partitioning transaction. The Commission requests comment on its proposals.

67. The Commission also proposes that in cases where a licensee that has qualified as a small business has received a bidding credit partitions a portion of its licenses to an entity that would not meet the eligibility standards for a bidding credit, it will require that the licensee reimburse the government for the amount of the bidding credit calculated on a proportional basis based on the ratio of the population. If a small business licensee that received a bidding credit partitions to an entity that would qualify for a lower bidding credit, the Commission will require that the licensee reimburse the government for the difference between the amount of the bidding credit obtained by the licensee and the bidding credit for which the partitionee is eligible calculated on a proportional basis based upon the ratio of population of the partitioned area. The Commission requests comment on its proposal.

68. It also seeks comment on the type of unjust enrichment requirements that should be placed as a condition for approval of an application for a partial transfer of a license owned by a qualified small business to a non-small business entity. The Commission tentatively concludes that these unjust enrichment provisions would include accelerated payment of bidding credits, unpaid principal, and accrued unpaid interest, and would be applied on a proportional basis. The Commission seeks comment on how such unjust enrichment amounts should be calculated, especially in light of the difficulty of devising a methodology or formula that will differentiate the relative market value of the opportunities to provide service to various partitioned areas within a geographic or market area. The Commission seeks comment on whether it should consider the price paid by the partitionee in determining the percentage of the outstanding principle balance to be repaid.

7. Disaggregation

69. The Commission seeks comment on the feasibility of spectrum disaggregation for narrowband PCS. Commenters should provide technical justifications and other relevant support in responding to this issue. Commenters should address whether minimum disaggregation standards are necessary for narrowband PCS services. Commenters should also address whether the Commission should permit nationwide licensees to disaggregate spectrum.

70. The Commission also seeks comment on what the respective obligations of the participants in a disaggregation transfer should be, and whether each party should be required to guarantee a proportionate amount of the disaggregator's original auctions-related obligation in the event of default or bankruptcy by any of the parties to the disaggregation transfer. The Commission seeks comment on whether the disaggregator (the original licensee) should have a continuing obligation with respect to the entire initial license. Alternatively, should the parties have available a choice of options, ranging from an accelerated payment based on purchase price to a guarantee for a larger payment by one party in the event another party defaults? Parties are invited to comment on whether the disaggregating parties should be able to determine which party has a continuing obligation with respect to the original license area.

71. The Commission proposes to allow all small business licensees to disaggregate to similarly qualifying parties as well as parties not eligible for small business provisions. It tentatively concludes that if it permits a qualified small business licensee to disaggregate to a non-small business entity, the disaggregating licensee should be required to repay any benefits it received from the small business special provisions on a proportional basis. This would include accelerated payment of bidding credits, unpaid principal, and accrued unpaid interest. The Commission seeks comment on how such repayment amounts should be calculated. It also seeks comment on whether it should consider the price paid by the disaggregatee in determining the percentage of the outstanding principal balance to be repaid.

72. The Commission tentatively concludes that if it permits a small business licensee to disaggregate to another qualified small business that would not qualify for the same level of bidding credit as the disaggregating licensee, the disaggregating licensee should be required to repay a portion of the benefit it received. It seeks comment on how that amount should be calculated. Finally, the Commission seeks comment on what provisions, if any, it should adopt to address the situation of a small business licensee's disaggregation followed by default in payment of a winning bid at auction.

G. Ownership Disclosure Requirements

73. The rules for narrowband PCS currently require applicants to disclose on their short-form applications, FCC Form 175, and long-form applications, FCC Form 600, certain ownership information. Section 24.413(a) of the Commission's rules provides that parties filing the short-form application to participate in the narrowband PCS auction and auction winners filing the long-form application shall include in an exhibit, *inter alia*, (1) a list of its subsidiaries, if any, (2) a list of its affiliates, if any, and (3) in the case of partnerships, the name and address of each partner, each partner's citizenship and the share or interest participation in the partnership, and a signed and dated copy of the partnership agreement. 47 CFR § 24.413(a).

74. The broadband PCS rules similarly contained ownership disclosure requirements for both the short-form and long-form applications. The Commission waived the five percent ownership disclosure requirements, however, for the broadband PCS A, B, and C block auctions. 61 FR 25808 (May 23, 1996). In that context, the Commission reasoned that requiring applicants to list

all businesses in which each attributable stockholder owns at least 5 percent would necessitate reporting of interests in firms with no relation to the services for which licenses are being auctioned, and for many companies, particularly investment firms with diverse holdings, might be extremely burdensome. The Commission therefore waived §§ 24.813(a)(1) and 24.813(a)(2) of the rules. Disclosure of direct, attributable ownership interests in other commercial mobile radio service licensees or applicants, however, is still required under § 20.6 of the Commission's rules. Similarly, the Commission waived the requirement that partnerships submit a signed and dated copy of partnership agreements with the short-form application. In waiving this requirement, it noted that partnership agreements often discuss strategic business objectives and financial and business obligations, including bidding strategies, which might be highly sensitive.

75. The Commission proposes to modify the ownership disclosure requirements for narrowband PCS as the Commission modified those requirements for broadband PCS through waiver. The Commission tentatively concludes that relaxing the disclosure requirements in this regard serves the public interest by reducing the administrative burdens associated with the auction process. The Commission seeks comment on this proposal. Furthermore, the Commission seeks comment on whether a separate schedule to the FCC Form 175 should be designed, which would formalize the ownership disclosure requirements for the short-form application that are presently reported in separate exhibits to the FCC Form 175.

H. Construction Prior To Grant of Licenses for Narrowband and Broadband PCS

76. In the *Third Report and Order*, 59 FR 26741 (August 24, 1994), the Commission determined that all commercial mobile radio service applicants should be subject to the same rules governing the construction of facilities prior to grant of pending applications. The Commission later clarified that such rules would extend to successful broadband PCS bidders that had filed a long-form application. Thus, 35 days after the date of the Public Notice announcing the Form 600 applications accepted for filing, PCS applicants listed therein may, at their own risk, commence construction of facilities, provided that (1) no petitions to deny the application have been filed, (2) the application does not contain a request for a rule waiver; (3) the applicant complies fully with the antenna structure provisions of 47 CFR 24.416, 24.816, including FAA notification and Commission filing requirements; (4) the application indicates that the facilities for which construction is commenced would not have a significant environmental effect (*see* 47 CFR 24.413(f), 24.813(f)); and (5) international coordination of the facility for which construction is commenced is not required.

77. The Commission proposes to modify its pre-licensing construction requirements for both broadband and narrowband PCS in order to expedite service to the public. Specifically, the Commission proposes that long-form applicants may begin construction of facilities at their own risk regardless of whether petitions to deny have been filed. In adopting pre-grant construction rules for CMRS applicants in general, the Commission favored a more liberal approach, urged by the industry's comments that granting applicants authority to engage in pre-grant construction could advance the date on which the public receives service. The Commission continues to believe that liberal pre-grant construction rules could speed the deployment of services to the public. The Commission also believes that applicants that begin construction pursuant to these provisions before receiving a final license grant do so at their own risk and, thus, they assume the risk that their licenses may not be granted as a result of pending petitions to deny. The Commission proposes to retain the remaining restrictions, however, in light of the specific public interest considerations they promote. The Commission seeks comment on these tentative conclusions and proposals.

II. Conclusion

78. The Commission believes that the proposals set forth for narrowband PCS in this *FNPRM* will promote the public policy goals set forth by Congress.

III. Procedural Matters

A. Regulatory Flexibility Act

79. With respect to this *FNPRM*, as required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *FNPRM* but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis. The Secretary shall send a copy of this *FNPRM*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

80. *Reason for Action:* This *FNPRM* was initiated to secure comment on proposals for revising rules for narrowband PCS. Such changes to the rules for the narrowband PCS service would promote efficient licensing and enhance the service's competitive potential in the Commercial Mobile Radio Service marketplace. The adopted and proposed rules are based on the competitive bidding authority of section 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 309(j), which authorized the Commission to use auctions to select among mutually exclusive initial applications in certain services, including narrowband Personal Communications Services (PCS).

81. *Objectives of this Action:* The Omnibus Budget Reconciliation Act of 1993 (Budget Act), Pub. L. 103–66, Title VI, section 6002, and the subsequent Commission actions to implement it are intended to establish a system of competitive bidding for choosing among certain applications for initial licenses, and to carry out statutory mandates that certain designated entities, including small businesses, are afforded an opportunity to participate in the competitive bidding process and in the provision of narrowband PCS services.

82. *Legal Basis:* The proposed action is authorized under the Budget Act and in sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 309(j).

83. *Reporting, Recordkeeping, and Other Compliance Requirements:* The proposals under consideration in this *FNPRM* include the possibility of new reporting and recordkeeping requirements for a number of small business entities, as follows. The Commission requests comment on these proposals.

a. *Service Area Reallocation.* The Commission proposes revising its current channelization plan to ensure that it provides sufficient opportunities for all interested parties, including small businesses, to establish a viable narrowband PCS system. The Commission is concerned that such opportunities may not be meaningful if a single Basic Trading Area (BTA) is not

a sufficiently large service area for implementation of narrowband PCS. The Commission has previously stated that the larger Major Trading Area licenses (MTAs) will provide for more reasonable and homogeneous license areas for the provision of PCS. In addition, the Commission reiterates that local participation in narrowband PCS could occur through franchising or partitioning arrangements with nationwide and regional PCS licensees, thus affording more opportunities to serve smaller areas. As a result, the Commission tentatively concludes that it will redesignate certain narrowband PCS frequencies for larger service areas and will thus provide additional opportunities for designated entities, including small businesses. The Commission proposes that the remaining narrowband PCS channel blocks will be redesignated as follows: (1) redesignate the two remaining 50 kHz paired channels as nationwide channels; (2) establish one nationwide, three regional, and one MTA-based channel pairs from the five 50/12.5 kHz channel pairs; and (3) convert the four BTA-based 12.5 kHz unpaired response channels to regional channels. The Commission does not anticipate any additional reporting or recordkeeping requirements from this proposal.

b. *Response Channel Redesignation.* The Commission tentatively concludes that the paging response channels should be reallocated for use in larger service areas. The Commission agrees with commenters who argue that reallocating some of the response channels for use in larger service areas will facilitate the upgrade of existing paging networks and enhance narrowband PCS systems. The Commission therefore proposes to redesignate the four 12.5 kHz unpaired response channels currently licensed as BTA channel blocks as regional channel blocks, and retain the four MTA paging response channels. Additionally, the Commission does not redesignate response channels to an entrepreneurs' block. Instead, as discussed in the *FNPRM*, the Commission proposes to open eligibility for these channels to all applicants, not just incumbent paging licensees. The Commission does not anticipate any additional reporting or recordkeeping requirements from this proposal.

c. *Construction Requirements.* The proposals in the *FNPRM* include the possibility of imposing reporting and recordkeeping requirements for new narrowband PCS licensees to establish compliance with the coverage requirements, if such requirements are adopted.

d. *Geographic Partitioning and Spectrum Disaggregation.* The proposals in the *FNPRM* include the possibility of imposing reporting and recordkeeping requirements for small businesses seeking licenses through the proposed partitioning and disaggregation rules. The information requirements would be used to determine whether the licensee is a qualifying entity to obtain partitioned or disaggregated spectrum. This information will be a one-time filing by any applicant requesting such a license. The information will be submitted on the FCC Forms 490 (or 430 and/or 600 filed as one package under cover of the Form 490) which are currently in use and have already received OMB clearance. The Commission estimates that the average burden on the applicant is three hours for the information necessary to complete these forms. The Commission estimates that 75 percent of the respondents, which may include small businesses, will contract out the burden of responding. The Commission estimates that it will take approximately 30 minutes to coordinate information with those contractors. The remaining 25 percent of respondents, which may include small businesses, are estimated to employ in-house staff to provide the information. Applicants, including small businesses, filing the package under cover of FCC Form 490 electronically will incur a $2.30 per minute on-line charge. On-line time would amount to no more than 30 minutes. The Commission estimates that 75 percent of the applicants may file electronically. The Commission estimates that applicants contracting out the information would use an attorney or engineer, with an average cost of $200 per hour, to prepare the information.

e. *Construction Prior to Grant of Licenses for Narrowband and Broadband PCS.* The proposals in the *FNPRM* include the possibility of changing existing Commission pre-licensing construction requirements for narrowband PCS. The proposal in the *FNPRM* would allow long-form applicants to begin construction of facilities at their own risk, regardless of whether any petitions to deny have been filed. The Commission does not anticipate any additional reporting or recordkeeping requirements from this proposal.

f. *Small Business Definition.* The *FNPRM* proposes a two-tiered definition to define small businesses: (1) A small business is a business with average gross revenues for each of the preceding three years that do not exceed $40 million, and (2) a very small business is one which has less than an average of $15 million in gross revenues in each of the last three years. Qualifying entities will be eligible for bidding credits and installment plans. In order to qualify as small business under either tier, an entity must demonstrate that its gross revenues fall within the proposed thresholds. The information will be submitted on the FCC Form 600, which is currently in use and which has received OMB clearance. Such entities will also need to maintain supporting documentation at their principal place of business.

g. *Ownership Disclosure Requirements.* The proposals in the *FNPRM* include the possibility of changing the ownership disclosure requirements for all applicants. The information requirements would be used to determine whether the licensee is a qualifying entity under the Commission's ownership rules. The proposals include relaxing the disclosure requirements, such as the required submittal of partnership agreements, which would reduce the administrative burdens associated with the auction process. The Commission also seeks comment on whether a separate schedule to FCC Form 175 should be designated, which would formalize the disclosure requirements to the current FCC Form 175. The proposal in the *FNPRM* would decrease the amount of information that a narrowband PCS applicant would be required to file. This information will be a one-time filing by any applicant requesting such a license. The information will be submitted on the FCC Forms 600 and FCC Form 175, which are currently in use and have already received OMB clearance.

84. *Federal Rules Which Overlap, Duplicate or Conflict With These Rules:* None.

85. *Description, Potential Impact, and Number of Small Entities Involved:* The *FNPRM* would establish certain narrowband PCS spectrum blocks for bidding by smaller entities as well as larger entities, and would provide installment payments and bidding credits to certain eligible entities bidding within those blocks. The Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total entities, existing and potential, would be affected by the proposed rules in the *FNPRM*. In particular, the Commission

seeks estimates of how many such entities will be considered small businesses.

86. *Geographic Partitioning and Spectrum Disaggregation.* The partitioning and disaggregation rule changes proposed in this proceeding will affect all small businesses which avail themselves of these rule changes, including small businesses currently holding narrowband PCS licenses who choose to partition and/or disaggregate and small businesses who may acquire licenses through partitioning and/or disaggregation.

87. The Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total entities, existing and potential, would be affected by the proposed rules in the *FNPRM.* In particular, the Commission seeks estimates of how many such entities will be considered small businesses. The Commission is utilizing the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing less than 1,500 persons. 13 CFR 121.201, Standard Industrial Classification Code 4812. The Commission seeks comment on whether this definition is appropriate for narrowband PCS licensees in this context. Additionally, the Commission requests each commenter to identify whether it is a small business under this definition. If a commenter is a subsidiary of another entity, this information should be provided for both the subsidiary and the parent corporation or entity.

88. The Commission estimates that the approximately 30 current regional narrowband PCS licensees and 11 nationwide narrowband PCS licensees could take the opportunity to partition and/or disaggregate a license or obtain an additional license through partitioning or disaggregation. New entrants could obtain narrowband PCS licenses through the competitive bidding procedure, and take the opportunity to partition and/or disaggregate a license or obtain an additional license through partitioning or disaggregation. Additionally, entities that are neither incumbent licensees nor geographic area licensees could enter the market by obtaining a narrowband PCS license through partitioning or disaggregation. The Commission cannot estimate how many licensees or potential licensees could take the opportunity to partition and/or disaggregate a license or obtain a license through partitioning and/or disaggregation, because it has not yet determined the size or number of narrowband PCS licenses that will be granted in the future. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of future narrowband PCS licensees can be made, the Commission assumes for purposes of this IRFA that all of the licenses will be awarded to small businesses. It is possible that a significant number of the potential licensees who could take the opportunity to partition and/or disaggregate a license or who could obtain a license through partitioning and/or disaggregation will be small businesses.

89. *Any Significant Alternatives Minimizing the Impact on Small Entities Consistent with the Stated Objectives:* In the *FNPRM,* the Commission seeks comment on whether coverage requirements should be imposed for all narrowband PCS licensees. Any significant alternatives presented in the comments will be considered. Coverage requirements for narrowband PCS licensees, if adopted, would probably not affect small businesses.

90. With respect to partitioning, the Commission tentatively concludes that unjust enrichment provisions should apply when a licensee has benefitted from the small business provisions in the auction rules and partitions a portion of the geographic license area to another entity that would not qualify for such benefits. The alternative to applying the unjust enrichment provisions would be to allow an entity who had benefitted from the special bidding provisions for small businesses to become unjustly enriched by partitioning a portion of their license area to parties that do not qualify for such benefits. The Commission also seeks comment on whether spectrum disaggregation would be feasible for narrowband PCS, and how much spectrum a narrowband PCS licensee should be permitted to disaggregate.

91. The *FNPRM* proposes certain provisions for smaller entities designed to ensure that such entities have the opportunity to participate in the competitive bidding process and in the provision of narrowband PCS services. Any significant alternatives presented in the comments will be considered.

B. Paperwork Reduction Act

92. As required by the Regulatory Flexibility Act, *see* 3 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed and adopted in the *FNPRM* section of this *Report and Order and FNPRM.* Written public comments are requested on the IRFA and must be filed by the deadlines for comments on the *Report and Order and FNPRM.*

C. Federal Rules Which Overlap, Duplicate or Conflict With These Rules

None.

D. Description, Potential Impact, and Number of Small Entities Involved

93. The *FNPRM* would establish certain narrowband PCS spectrum blocks for bidding by smaller entities as well as larger entities, and would provide installment payments and bidding credits to certain eligible entities bidding within those blocks. The Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total entities, existing and potential, would be affected by the proposed rules in the *FNPRM.* In particular, the Commission seeks estimates of how many such entities will be considered small businesses.

94. *Geographic Partitioning and Spectrum Disaggregation.* The partitioning and disaggregation rule changes proposed in this proceeding will affect all small businesses which avail themselves of these rule changes, including small businesses currently holding narrowband PCS licenses who choose to partition and/or disaggregate and small businesses who may acquire licenses through partitioning and/or disaggregation.

95. The Commission is required to estimate in its Final Regulatory Flexibility Analysis the number of small entities to which a rule will apply, provide a description of such entities, and assess the impact of the rule on such entities. To assist the Commission in this analysis, commenters are requested to provide information regarding how many total entities, existing and potential, would be affected by the proposed rules in the *FNPRM.* In particular, the Commission seeks estimates of how many such entities will be considered small businesses. The Commission is utilizing the Small Business Administration definition applicable to radiotelephone companies, *i.e.*, an entity employing less

than 1,500 persons. The Commission seeks comment on whether this definition is appropriate for narrowband PCS licensees in this context. Additionally, the Commission requests each commenter to identify whether it is a small business under this definition. If a commenter is a subsidiary of another entity, this information should be provided for both the subsidiary and the parent corporation or entity.

96. The Commission estimates that the approximately 30 current regional narrowband PCS licensees and 11 nationwide narrowband PCS licensees could take the opportunity to partition and/or disaggregate a license or obtain an additional license through partitioning or disaggregation. New entrants could obtain narrowband PCS licenses through the competitive bidding procedure, and take the opportunity to partition and/or disaggregate a license or obtain an additional license through partitioning or disaggregation. Additionally, entities that are neither incumbent licensees nor geographic area licensees could enter the market by obtaining a narrowband PCS license through partitioning or disaggregation. The Commission cannot estimate how many licensees or potential licensees could take the opportunity to partition and/or disaggregate a license or obtain a license through partitioning and/or disaggregation, because it has not yet determined the size or number of narrowband PCS licenses that will be granted in the future. Given the fact that nearly all radiotelephone companies have fewer than 1,000 employees, and that no reliable estimate of the number of future narrowband PCS licensees can be made, the Commission assumes for purposes of this IRFA that all of the licenses will be awarded to small businesses. It is possible that a significant number of the potential licensees who could take the opportunity to partition and/or disaggregate a license or who could obtain a license through partitioning and/or disaggregation will be small businesses.

E. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

97. In the *FNPRM* the Commission seeks comment on whether coverage requirements should be imposed for all narrowband PCS licensees. Any significant alternatives presented in the comments will be considered. Coverage requirements for narrowband PCS licensees, if adopted, would probably not affect small businesses.

98. With respect to partitioning, the Commission tentatively concludes that unjust enrichment provisions should apply when a licensee has benefitted from the small business provisions in the auction rules and partitions a portion of the geographic license area to another entity that would not qualify for such benefits. The alternative to applying the unjust enrichment provisions would be to allow an entity who had benefitted from the special bidding provisions for small businesses to become unjustly enriched by partitioning a portion of their license area to parties that do not qualify for such benefits. The Commission also seeks comment on whether spectrum disaggregation would be feasible for narrowband PCS, and how much spectrum a narrowband PCS licensee should be permitted to disaggregate.

99. The *FNPRM* proposes certain provisions for smaller entities designed to ensure that such entities have the opportunity to participate in the competitive bidding process and in the provision of narrowband PCS services. Any significant alternatives presented in the comments will be considered.

100. *IRFA Comments*: The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in paragraph 109 of this *FNPRM*.

101. *Dates*. Written comments by the public on the proposed information collections are due on or before June 18, 1997 and reply comments are due on or before July 7, 1997. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection on or before June 18, 1997 and reply comments are due on or before July 7, 1997.

102. *Addresses*: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street NW, Washington DC 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725 17th Street NW, Washington, DC 20503 or via the Internet to fain_t@al.eop.gov.

103. *Further Information:* For additional information concerning the information collections contained in the NPRM, contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

104. *Supplementary Information:*

Title: Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, implementation of section 309(j) of the Communications Act—Competitive Bidding, Narrowband PCS, FNPRM.

OMB Number: 3060–0604.

Form Number: FCC Forms 175 and 600.

Type of Review: Revision of existing collection.

Respondents:

Affected public: Individuals, State or local governments, Businesses or other for-profit, Small businesses or organizations.

Number of respondents: 6,136.

Estimated time per response: 6 hours.

Total annual burden: 16,000.5 hours.

Needs and uses: The auction rules require narrowband PCS applicants to submit (1) information to qualify for small businesses, (2) ownership information, (3) proof of compliance with coverage requirements and (4) eligibility to participate in partitioning and disaggregation. The information needed to qualify as a small business and the ownership information will be submitted as attachments to FCC Form 600. Coverage requirements will be submitted in letter form during designated benchmarks during the license term. The information for partitioning and disaggregation will be covered under a generic clearance which has been submitted to OMB for approval. Collection of information is required so that the Commission can determine whether narrowband PCS applicants are legally, technically and financially qualified to be licensed and whether applicants are entitled to receive certain benefits. The information will also be used to ensure that licensees who acquire their licenses through competitive bidding are not unjustly enriched by premature transfer of their licenses. Without the information, the Commission could not determine whether to issue the licenses to the applicants that provide telecommunication services to the public. The information is used by Commission staff in carrying out its duties under the Communications Act. This is a revision of a previously approved collection. If no changes are made to these collections in the Report and Order, a correction worksheet will be submitted at that time.

F. Ex Parte Rules—Non-Restricted Proceeding

105. This is a non-restricted notice proceeding. *Ex parte* presentations are permitted except during the Sunshine Agenda period, provided they are

disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a).

G. Comment Dates

106. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 18, 1997, and reply comments on or before July 7, 1997. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center of the Federal Communications Commission, Room 239, 1919 M Street, NW, Washington, DC 20554.

H. Ordering Clauses

107. Authority for issuance of this *FNPRM* is contained in sections 4(i), 303(r) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 309(j).

List of Subjects in 47 CFR Part 24

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–13147 Filed 5–19–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Chapter V

Consumer Information; Motor Vehicle Safety; Rollover Prevention

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of petition for rulemaking.

SUMMARY: The agency grants an August 20, 1996 petition for rulemaking from Consumers Union of United States, Inc., requesting NHTSA to commence a rulemaking proceeding to consider establishing "an emergency handling test [for sport-utility vehicles] and to require that information derived from that test be included in the consumer warnings required by the agency." The agency seeks to evaluate the issues raised in the petition in view of the agency's continuing interest in rollover safety, as evidenced by its 1994 rulemaking proposal to amend its consumer information regulations to require passenger vehicles to be labeled with information about their resistance to rollover, and other related rulemaking activities.

The agency will respond in a separate notice to a request from the petitioner that NHTSA should commence a proceeding to decide whether to issue an order concerning an alleged defect in model year (MY) 1995–96 Isuzu Trooper and Acura SLX sport-utility vehicles.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues: Michael Pyne or Gayle Dalrymple, Office of Crash Avoidance Standards, NPS–20, telephone (202) 366–4931, National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, D.C., 20590.

For legal issues: Deirdre Fujita, Office of the Chief Counsel, NCC–20, telephone (202) 366–2992, address same as above.

SUPPLEMENTARY INFORMATION: This document announces that NHTSA is granting a petition for rulemaking from Consumers Union of United States, Inc. (CU), requesting NHTSA to establish a standard and/or a rating system "that will help consumers to compare emergency handling performance of sport-utility vehicles." CU asks the agency to "augment its consumer information disclosure requirement by (1) establishing a testing system that rates comparatively the ability of sport-utility vehicles to perform emergency maneuvers acceptably, (2) [requiring] that each such vehicle include its rating in the required warning, and (3) [requiring] vehicles that exhibit a high rollover propensity during emergency handling testing to achieve a minimum acceptable rating through vehicle modifications."

The agency issued a rulemaking proposal (NPRM) in 1994 to amend its consumer information regulations (49 CFR Part 575) to require passenger vehicles to be labeled with information about their resistance to rollover. That proposal, which is still pending, would require vehicles to be labeled by make/model with a "stability metric," which is a measured vehicle characteristic that relates to some degree to a vehicle's likelihood of rollover involvement. The agency issued the proposal in the belief that the information would enable prospective purchasers to make informed choices about new vehicles based on differences in rollover risk, and motivate manufacturers to give more priority to rollover stability in designing their vehicles.

NHTSA has also undertaken a variety of other activities intended to mitigate the adverse effects of rollovers, including a final rule requiring upgraded padding on the upper interior of light vehicles, a final rule extending the side door latch requirements to rear doors, and research evaluating improved roof crush resistance, enhanced side window glazing, improved door latches, and advanced occupant restraint systems. These activities are explained in detail in the May 1996 "Status Report for Rollover Prevention and Injury Mitigation," available in NHTSA Docket No. 91–68, Notice 5.

CU's petition is related to the 1994 NPRM: both pertain to the rollover resistance of vehicles and envision a rating system by which prospective purchasers may compare vehicle performance. However, the petition differs from the NPRM in several key respects. The CU petition focuses on on-road, untripped rollover crashes, while the NPRM encompasses both on- and off-road single vehicle rollovers. Also, the CU petition envisions a dynamic test for evaluating vehicle performance, while the NPRM proposed a static test which isolates and measures a vehicle attribute.

NHTSA will initially focus on exploring whether it can develop a practicable, repeatable and appropriate dynamic emergency handling test that assesses, among other issues, a vehicle's propensity for involvement in an on-road, untripped rollover crash. The agency will expand this exploration beyond CU's suggestion that any such emergency handling test be limited to sport utility vehicles. Assuming the agency can develop a technically sound test protocol, it should be equally useful for all light vehicles, including cars, trucks, and vans.

The granting of CU's rulemaking petition should not be misinterpreted as an endorsement of the CU test procedure. In its petition, CU described a particular dynamic test procedure that it has been using since 1988 to rate the rollover propensity of vehicles. Based on preliminary testing conducted by the agency's Office of Defects Investigation, it does not currently appear that the CU "short course" test by itself is an appropriate assessment of rollover propensity or will be the primary focus of NHTSA's exploration of a dynamic handling test. Indeed, CU's rulemaking petition shows that CU did not anticipate that the agency would focus

on the CU test protocol—instead, CU urged that "the agency should determine the exact parameters of the test course and test requirements based on its own investigation." NHTSA will explore a variety of vehicle maneuvers, including a double lane change, as part of its efforts to develop an appropriate dynamic emergency handling test.

Similarly, the granting of the rulemaking petition does not necessarily mean that a rule will be issued. The determination of whether to issue a rule will be made in the course of a rulemaking proceeding, in accordance with statutory criteria.

CU also petitioned NHTSA to commence a proceeding to decide whether to issue an order concerning an alleged defect in MY 1995–96 Isuzu Trooper and Acura SLX sport-utility vehicles. The agency will respond to this request for a defect proceeding in a separate document.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on May 14, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–13184 Filed 5–15–97; 3:08 pm]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 62, No. 97
Tuesday, May 20, 1997

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

Animal and Plant Health Inspection Service

[Docket No. 96–098–2]

Dupont Agricultural Products; Availability of Determination of Nonregulated Status for Genetically Engineered Soybeans

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Dupont Agricultural Products' soybeans designated as sublines G94–1, G94–19, and G168 derived from transformation event 260–05 which have been genetically engineered to produce high oleic acid oil, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Dupont Agricultural Products in its petition for a determination of nonregulated status and an analysis of other scientific data. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: May 7, 1997.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, and the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. Ved Malik, BSS, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–8761. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On January 8, 1997, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 97–008–01p) from Dupont Agricultural Products (Dupont) of Wilmington, DE, seeking a determination that soybeans designated as sublines G94–1, G94–19, and G168 derived from transformation event 260–05 (sublines G94–1, G94–19, and G168) which have been genetically engineered to produce high oleic acid oil, do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

On February 28, 1997, APHIS published a notice in the **Federal Register** (62 FR 9155–9156, Docket No. 96–098–1) announcing that the Dupont petition had been received and was available for public review. The notice also discussed the role of APHIS and the Food and Drug Administration in regulating the subject soybean sublines and food products derived from them. In the notice, APHIS solicited written comments from the public as to whether these soybean sublines posed a plant pest risk. The comments were to have been received by APHIS on or before April 29, 1997. APHIS received no comments on the subject petition during the designated 60-day comment period.

Analysis

Sublines G94–1, G94–19, and G168 have been genetically engineered to contain the GmFad2–1 gene, which causes a coordinate silencing of itself and the endogenous GmFad2–1 gene. Suppression of the GmFad2–1 gene in developing soybeans prevents the addition of a second double bond to oleic acid, resulting in a greatly increased oleic acid content only in the seed. Oil from this seed contains an abundance of monosaturated oleic acid (82–85 percent), a reduced concentration of polysaturated fatty acids, and lower palmitic acid content. While the subject soybean sublines also contain the GUS and Amp marker genes, tests indicate that these genes are not expressed in the soybean plants. The added genes were introduced into meristems of the elite soybean line A2396 by the particle bombardment method, and their expression is controlled in part by gene sequences from the plant pathogens *Agrobacterium tumefaciens* and cauliflower mosaic virus.

The subject soybean sublines have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of these soybeans conducted under APHIS notifications since 1995 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of sublines G94–1, G94–19, and G168.

Determination

Based on its analysis of the data submitted by Dupont and a review of other scientific data and field tests of the subject soybeans, APHIS has determined that sublines G94–1, G94–19, and G168: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than soybean lines developed by traditional breeding techniques; (3) are unlikely to increase the weediness potential for any other cultivated or wild species with which they can interbreed; (4) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture; and (5) will not cause damage to raw or processed agricultural commodities. Therefore, APHIS has concluded that the subject soybean sublines and any progeny derived from hybrid crosses with other nontransformed soybean varieties will be as safe to grow as soybeans in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that Dupont's soybean sublines G94–1, G94–19, and G168 are no longer considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject soybean sublines or their progeny. However,

importation of soybean sublines G94–1, G94–19, and G168 or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that Dupont's soybean sublines G94–1, G94–19, and G168 and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 14th day of May 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–13115 Filed 5–19–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–006–2]

Calgene, Inc.; Availability of Determination of Nonregulated Status for Genetically Engineered Cotton

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the Calgene, Inc., cotton lines designated as BXN® with Bt cotton lines derived from transformation events 31807 and 31808 which have been genetically engineered for tolerance to the herbicide bromoxynil and resistance to lepidopteran insect pests, are no longer considered regulated articles under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by Calgene, Inc., in its petition for a determination of nonregulated status and an analysis of other scientific data. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: April 30, 1997.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, and the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect those documents are asked to call in advance of visiting at (202) 690–2817.

FOR FURTHER INFORMATION CONTACT: Dr. James White, BSS, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–8761. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On January 13, 1997, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 97–013–01p) from Calgene, Inc., (Calgene) of Davis, CA, seeking a determination that cotton lines designated as BXN® with Bt cotton lines derived from transformation events 31807 and 31808 (events 31807 and 31808), which have been genetically engineered for bromoxynil herbicide tolerance and lepidopteran insect pest resistance, do not present a plant pest risk and, therefore, are not regulated articles under APHIS' regulations in 7 CFR part 340.

On February 21, 1997, APHIS published a notice in the **Federal Register** (62 FR 7996–7997, Docket No. 97–006–1) announcing that the Calgene petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject cotton lines and food products derived from them. In that notice, APHIS solicited written comments from the public as to whether these cotton lines posed a plant pest risk. The comments were to have been received by APHIS on or before April 22, 1997. During the designated 60-day comment period, APHIS received no comments on the subject petition.

Analysis

Events 31807 and 31808 have been genetically engineered to express a nitrilase enzyme isolated from *Klebsiella pneumoniae* subsp. *ozaenae*, which degrades the herbicide bromoxynil, and a CryIA(c) insect control protein originally derived from the common soil bacterium *Bacillus thuringiensis* subsp. *kurstaki* HD–73 (Bt). The subject cotton lines also express the *nptII* gene, which codes for the enzyme neomycin phosphotransferase and has been used as a selectable marker in the development of the transgenic cotton plants. Expression of the added genes is controlled in part by noncoding DNA sequences derived from the plant pathogens *Agrobacterium tumefaciens* and cauliflower mosaic virus. The *Agrobacterium* transformation method was used to transfer the added genes into the Coker 130 parental cotton plants.

The subject cotton lines have been considered regulated articles under APHIS' regulations in 7 CFR part 340 because they contain gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of the cotton lines conducted under APHIS notifications since 1994 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of events 31807 and 31808.

Determination

Based on its analysis of the data submitted by Calgene and a review of other scientific data and field tests of the subject cotton plants, APHIS has determined that events 31807 and 31808: (1) Exhibit no plant pathogenic properties; (2) are no more likely to become weeds than cotton lines developed by traditional breeding techniques; (3) are unlikely to increase the weediness potential for any other cultivated or wild species with which they can interbreed; (4) will not cause damage to raw or processed agricultural commodities; (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture; and (6) should not reduce the ability to control insects in cotton or other crops when cultivated. Therefore, APHIS has concluded that the subject cotton lines and any progeny derived from hybrid crosses with other nontransformed cotton varieties will be as safe to grow as cotton in traditional breeding programs that are not subject to regulation under 7 CFR part 340.

The effect of this determination is that Calgene's cotton events 31807 and 31808 are no longer considered regulated articles under APHIS' regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject cotton lines or their progeny. However, importation of cotton events 31807 and 31808 or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA)(42 U.S.C. 4321 *et seq.*); (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR part 1b); and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that Calgene's cotton events 31807 and 31808 and lines developed from them are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 14th day of May 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–13116 Filed 5–19–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Water Rights Task Force Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting cancellation.

SUMMARY: The Forest Service is cancelling the ninth meeting of the Water Rights Task Force, which was to be held in Boise, Idaho, on May 19, 1997, and which was announced in the **Federal Register** on April 4, 1997 (62 FR 16134).

ADDRESSES: The meeting was to have been held in the White Pine Conference Room of the Red Lion Downtowner Hotel in Boise, Idaho.

FOR FURTHER INFORMATION CONTACT: Stephen Glasser, Watershed & Air Management Staff, Telephone: (202) 205–1172; FAX 205–1096.

SUPPLEMENTARY INFORMATION: The meeting has not yet been rescheduled. When it is rescheduled, the Forest Service will announce, in the **Federal Register**, the new date for the ninth meeting of the Water Rights Task Force.

Dated: May 15, 1997.

Janice H. McDougle,

Acting Deputy Chief for NFS.

[FR Doc. 97–13242 Filed 5–15–97; 4:45 pm]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Sweet Lake/Willow Lake Project (CS–11b), Cameron Parish, LA

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of finding of no significant impact.

Description of Action

The United States Department of Agriculture, Natural Resources Conservation Service proposes to implement the Sweet Lake/Willow Lake Restoration Plan in Cameron Parish, Louisiana. The project involves placement of a rock rip-rap embankment of approximately 18,000 linear feet along the north bank of the Gulf Intracoastal Waterway (GIWW), vegetative plantings of California bulrush (*Scirpus californicus*) along approximately 28,300 linear feet of the Sweet Lake shoreline, and construction of approximately 25,500 linear feet of earthen terrace with 2 rows of California bulrush plantings.

Factors Considered in Determination

The Sweet Lake/Willow Lake Environmental Assessment was prepared in order to assess potential impacts of the project. In this document, no significant adverse impacts to important habitat, endangered species, recreation, or other resources were found. The project will not affect the two archaeological sites, and no other known National Register of Historic Places properties are in the vicinity of the project area. Impacts to any significant cultural resources in the area will be avoided.

Public Participation

Upon signature of this Finding of No Significant Impact (FONSI), a Notice of Availability will be sent to concerned federal, state, local and other organizations and individuals known to have an interest in the proposed project. The proposed project has been coordinated with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, U.S. Army Corps of Engineers, Louisiana Department of Natural Resources and the Governor's Office of Coastal Affairs.

Meetings are being held throughout the process to keep all interested parties informed of the project status. Agency consultation and public participation to date have shown no unresolved conflicts with the proposed implementation of the selected plan.

Conclusion

This office has assessed the environmental impact of the proposed work and has determined that the project will have no significant adverse local, regional, or national impacts on the environment. Therefore, no Environmental Impact Statement (EIS) or Supplemental EIS will be prepared.

Dated: May 8, 1997.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 97–13117 Filed 5–19–97; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Task Force on Agricultural Air Quality; Notice of Meeting

AGENCY: Natural Resources Conservation Service; Agriculture.

ACTION: Notice of meeting.

SUMMARY: The Task Force on Agricultural Air Quality will meet for the second time to discuss the relationship between agricultural production and air quality. Special emphasis will be placed on promoting a greater understanding of California agriculture, particularly its impact on air quality and the role it plays in the local and national economy. The meeting is open to the public.

DATES: The meeting will convene Tuesday, June 17, 1997 at 9:00 a.m. and continue until 4:00 p.m. The meeting will resume Thursday, June 19, 1997 from 9:00 a.m. to 3:00 p.m. Written material and requests to make oral presentations should reach the Natural

Resources Conservation Service on or before June 13, 1997.

ADDRESSES: The meeting will be held at the Piccadilly Inn Airport Hotel, 5115 East McKinley Avenue, Fresno, California, telephone (209) 251–6000. Written material and requests to make oral presentations should be sent to George Bluhm, University of California, Land, Air, Water Resources, 151 Hoagland Hall, Davis, CA 95616–6827.

FOR FURTHER INFORMATION CONTACT: George Bluhm, Designated Federal Official, telephone (916) 752–1018, fax (916) 752–1552.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Task Force on Agricultural Air Quality, including any revised agendas for the June 17 and 19, 1997 meetings that may appear after this **Federal Register** Notice is published, may be found on the World Wide Web at http://www.nhq.nrcs.usda.gov/BCS/air/farmbill.html.

Draft Agenda of the June 17 and 19, 1997, Meetings

A. Opening Remarks
   1. Welcome to California—M. Cunha
   2. Comments and introductions from the Chair—G. Margheim

B. Past Actions
   1. Report on the first letter of advice to the Secretary—P. Wakelyn
   2. House Agriculture Subcommittee on Forestry, Resource Conservation and Research hearing on air quality—K. Saxton, C. Parnell Jr.
   3. EPA interaction with Congress—S. Shaver

C. Status Reports on Efforts in Progress
   1. Draft MOU between USDA and EPA—S. Shaver, G. Bluhm
   2. 98% percentile issue—P. Breeze
   3. Health effects—T. Ferguson, V. Chavez
   4. PM research issues—M. Cunha, R. Flocchini
   5. Ozone—J. Miller
   6. Oversight—W. Hambleton
   7. Monitoring—C. Parnell Jr.
   8. Odorants—J. Sweeten

D. New Issues and Parking Lot
   1. Agricultural burning
   2. Crop check-off funds for cleaner air efforts
   3. Air quality Presidential Initiative
   4. As time allows, other issues brought up by the public or Task Force members

E. Set date and location for next meeting

Note: On Wednesday, June 18, 1997 the Task Force will conduct an all-day tour of agricultural operations around the San Joaquin Valley.

Procedural

This meeting is open to the public. At the discretion of the Chair, members of the public may present oral presentations during the June 17 and 19 meetings. Persons wishing to make oral presentations should notify George Bluhm no later than June 13, 1997. If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, that person should submit 25 copies to George Bluhm no later than June 13, 1997.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact George Bluhm as soon as possible.

Lee P. Herndon,

Director, Institutes Division.

[FR Doc. 97–13167 Filed 5–19–97; 8:45 am]

BILLING CODE 3410–03–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alaska Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alaska Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 3:30 p.m. on Thursday, June 12, 1997, at the Anchorage Hilton, 500 West Third Avenue, Anchorage, Alaska 99501. The purpose of the meeting is to conduct a briefing on special education and plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Gilbert Gutierrez, 907–443–5682, or Philip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 12, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–13114 Filed 5–19–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn 3:00 p.m. on Tuesday, June 3, 1997, at the University of Maine at Ft. Kent, Cry Hall Conference Room, 25 Pleasant Street, Ft. Kent, Maine 04743. The Committee will reconvene at 9:00 a.m. and adjourn at 4:00 p.m. on Wednesday, June 4, 1997, at the Washington County Technical College, Assembly Room, RR 1 Box 22C, River Road, Calais, Maine 04619. The purpose of the meeting is to gather information on the project, "Limited English Proficient Students in Maine: An Assessment of Equal Educational Opportunities."

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Barney Bérubé, 207–287–5980, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 12, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–13113 Filed 5–19–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Massachusetts Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 10:00 a.m and adjourn at 3:00 p.m. on Friday, June 6, 1997, at the law firm of Sugarman, Rogers, Barshak & Cohen, Ninth Floor Conference Room, 101 Merrimack, Boston, Massachusetts 02114. The purpose of the meeting is to discuss and plan details of the forthcoming civil rights leadership conference to be held late 1997.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Fletcher Blanchard, 413–585–3909, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, May 12, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–13112 Filed 5–19–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On May 12, 1997, Stelco, Inc. filed a first request for panel review with the U.S. Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final antidumping duty Administrative review made by the International Trade Administration in the administrative review respecting Certain Corrosion-Resistant Carbon Steel Flat Products from Canada. This determination was published in the **Federal Register** on April 15, 1997 (62 FR 18448). The NAFTA Secretariat has assigned Case Number USA–97–1940–03 to this request.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter will be conducted in accordance with these Rules.

A first Request for Panel Review was filed with the U.S. Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on May 12, 1997, requesting panel review of the final antidumping duty administrative review described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is June 11, 1997);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is June 26, 1997); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: May 14, 1997.

James R. Holbein,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 97–13173 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Public Meeting to Announce an Opportunity to Join a Cooperative Research and Development Consortium for Zone Fire Modeling

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: The National Institute of Standards and Technology invites interested parties to attend a meeting on Wednesday, August 13, 1997 to discuss setting up a cooperative research consortium. The goal of the consortium is to achieve a modeling protocol which will support commercial use of fire models. The working group will suggest direction and development options for future work. Parties participating in the consortium will have early access to the code and development process.

The program will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research and development agreements with qualified parties. Under this law, NIST may contribute personnel, equipment and facilities—but no funds—to the cooperative program. Members will be expected to make a contribution to the consortium's effort in the form of personnel and/or funds. This is not a grant program.

DATES: The meeting will be held on Wednesday, August 13, 1997 from 8:30 am until 12:00 p.m.

ADDRESSES: The meeting will be held in Lecture Room B at the National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Walter W. Jones, 301 975–6887, facsimile 301 975–4052.

SUPPLEMENTARY INFORMATION: Over the past decade the Building and Fire Research has developed computer based models as a predictive tool for estimating the environment which results in a building when a fire is present. Development of the first of these models FAST, started about 1983. In 1985, development of the Consolidated Computer Fire Model was begun. It was originally envisioned to be a benchmark fire code, with all algorithms of fire phenomena available for experimentation. In 1989, a decision was made that development of many computer programs was not the best

possible course for BFRL. At the time, FAST included considerably more phenomena than any other model anywhere. In addition, it used significantly more sophisticated graphics output. For these reasons, among others, FAST was selected as the engine for further development. A priority project was undertaken in 1989 to incorporate the lessons learned in the development of the structure of CCFM. This code was named CFAST [1] for the Consolidated Fire Growth and Smoke Transport Model. This is the only explicit zone fire model supported by the Building and Fire Research Laboratory. FAST was the engine in HAZARD I, versions 1.0 and 1.1, which became available in June of 1989, and September of 1991, respectively. CFAST is the basis for Hazard 1.2, which became available in 1994. CFAST is intended to operate on many platforms, be as error free as possible, be simple to run for simple problems, yet allow complexity where needed. The code is extremely fast. It works on laptop personal computers, Unix workstations and supercomputers. It provides extensive graphics for analysis with pre- and post-processing modules. It is extremely fast on single compartment cases, and with the data editor, there is tremendous flexibility for parameter studies, such as "what if" testing. The model is particularly well suited for doing parameter studies of changes, both subtle and large, within a single compartment.

The development of the Hazard Methodology with the associated software has provided the underpinnings for a higher level of understanding of hazard prediction for buildings. The FASTLite tool, also based on the CFAST zone model and available since May, 1996, improved the usability of this type of modeling by providing a graphical user interface. The current list of users of the fire modeling software exceeds 2,500. The next version of CFAST, version 3, is expected this summer. There are many improvements that can be made beyond this, both in usability as well as functionality.

As a result of the multiple requests that NIST has received for enhancements to this software, NIST is proposing a consortium to maximize the benefits of further research. The purpose of the public meeting is to discuss formation of a consortium to support the continued development in a way that addresses industry needs. The meeting will provide a forum to explain the rules which will apply to the consortium. The consortium will establish the direction for further research and development of the fire safety engineering tools. The program will be within the scope and confines of The Federal Technology Transfer Act of 1986 (Public Law 99–502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research and development agreements with qualified parties. Under this law, NIST may contribute personnel, equipment and facilities—but no funds—to the cooperative program. Members will be expected to make a contribution to the consortium's efforts in the form of personnel and/or funds. This is not a grant program.

Interested parties should contact NIST to confirm their interest at the address, telephone number or facsimile number shown above.

Dated: May 13, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–13200 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–13–M

[1] Peacock, R.D., Jones, W.W., Forney, G.P., Reneke, P., Portier, R., CFAST, the Consolidated Model of Fire and Smoke Transport, National Institute of Standards and Technology, Technical Note 1299 (1992).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021997G]

Atlantic Shark Fisheries

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

ACTION: Notice of intent to prepare a Supplemental Environmental Impact Statement (SEIS) and request for written comments.

SUMMARY: NMFS announces its intent to prepare a SEIS to assess the potential impacts of adjustments to the Atlantic shark fishery in 1998 and beyond. NMFS is responsible for managing the Atlantic shark fishery.

NMFS will prepare an SEIS to assess the impact of shark harvests and proposed regulations on the natural and human environment. This notice of intent requests written comments on issues that NMFS should consider in preparing the SEIS and amendment to the Fishery Management Plan for sharks of the Atlantic Ocean (FMP). Scoping meetings for the SEIS will be scheduled at a later date.

The purpose of this notice is to: Inform the interested public of the intent to prepare this SEIS; provide information on recent stock assessments for Atlantic sharks; announce that NMFS is considering measures for the 1998 Atlantic shark fishery; and request public comments.

DATES: Public comments must be received on or before July 21, 1997. Public meetings will be announced at a later date.

ADDRESSES: Comments on the proposal to prepare an SEIS must be sent to: Rebecca Lent, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: C. Michael Bailey or Margo Schulze, 301–713–2347; fax 301–713–1917.

SUPPLEMENTARY INFORMATION:

Background

The fishery for Atlantic sharks is managed under the fishery management plan (FMP) prepared by NMFS under authority of section 304(g) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended, and implemented on April 26, 1993, through regulations found at 50 CFR part 678. The FMP established three species management groups, commercial quotas and recreational bag limits, fishing seasons, mandatory vessel reporting, and required commercial vessel permits (with an earned income requirement).

In recent years, sharks have been heavily exploited as a result of increased demand for their meat, fins, and cartilage. In addition, mortality is reported to be high for sharks that are caught as bycatch in the swordfish, tuna, and shrimp trawl fisheries. The 1994 Shark Evaluation Workshop (SEW) determined that the large coastal species group is overfished and that the pelagic and small coastal species groups are fully fished. The SEW concluded that increases in the quota for large coastal sharks in 1995, as planned in the FMP, could jeopardize stock recovery. A final rule that capped quotas for large coastal and pelagic sharks at the 1994 levels was published on May 2, 1995.

The 1995 SEW report, released by NMFS on April 20, 1995, agreed with the previous findings of the 1994 SEW and reiterated that the projected 1995 quota increase should be delayed indefinitely. In June 1996, a new stock assessment was conducted to reevaluate the status of large coastal sharks. The most recent data indicate that the rapid rate of decline that characterized the stock in the mid 1980s has slowed

significantly. Abundance estimates from the more recent years are variable, and a significant statistical trend, either increasing or decreasing, could not be detected.

Current Management Measures

NMFS recently implemented regulations to reduce commercial quotas and recreational bag limits to address the overfished status of large coastal sharks and to prevent overfishing of the fully fished pelagic and small coastal sharks (62 FR 16648). NMFS is currently considering a limited access program to address overcapacity in the shark fishery fleet (61 FR 68202).

Management Measures Under Consideration

NMFS will consider additional measures for 1998 and beyond for managing the Atlantic shark fishery. These measures may include minimum size restrictions, time/area closures to protect nursery areas, regional quotas, consistency between state and federal regulations, species-specific management, authorized gear restrictions, and a long-term rebuilding program. Consistent with the recent amendments to the Magnuson-Stevens Act, NMFS is establishing an advisory panel to assist in the development of the amendment to the FMP.

NMFS has determined that an SEIS is appropriate, due to the potentially significant impact of upcoming regulations on the human environment and because changes have occurred in the fishery since the last EIS was prepared in 1993. Participants in the fishery, including processors, may be required to operate under alternative management measures that will redistribute fishing effort and/or mortality in order to facilitate recovery of shark resources.

Timing of the Analysis and Tentative Decisionmaking Schedule

Written comments on the intent to prepare the EIS will be accepted until July 21, 1997. Comments will be considered in the preparation of a draft SEIS (DSEIS) as part of a FMP amendment addressing a long-term rebuilding program and other measures.

Dated: March 21, 1997.

Bruce Morehead,

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

[FR Doc. 97–13159 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051297D]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of committee meetings.

SUMMARY: Two committees of the North Pacific Fishery Management Council (Council) will meet June 4–6, 1997.

ADDRESSES: The meetings will be held at the Alaska Fisheries Science Center (AFSC), 7600 Sand Point Way, NE, in the Observer Training Room, Building 4, Seattle, WA 98115.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Chris Oliver, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council's Insurance Technical Committee (relative to observer insurance coverage) will meet on June 4, 1997, 1:00 p.m. to 5:00 p.m., to discuss a recent Federal Employees Compensation Act designation for observers contained within the Magnuson-Stevens Act, and other related insurance considerations.

The Observer Oversight Committee will meet on June 5, 1997, beginning at 8:30 a.m. and will continue through June 6, 1997, as necessary. Agenda subjects for the meeting include:

1. An update on the current interim observer program, including a rollover of that program for at least another year, with minor revisions.

2. Discussions of potential alternatives to the existing program.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: May 14, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–13164 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051297C]

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Habitat and Environmental Protection Advisory Panel (Habitat AP).

DATES: The meeting will be held from May 28-29, 1997. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meeting will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: 803-571-1000.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520; email: susan_buchanan@safmc.nmfs.gov

SUPPLEMENTARY INFORMATION:

Meeting Dates

May 28, 1997, 1:00 p.m. to 6:00 p.m.

The Habitat AP will meet to discuss previous advisory panel recommendations; to review the Essential Fish Habitat (EFH) mandate in the Magnuson-Stevens Act and formulate AP recommendations for how the Council can meet these mandates; to review and make AP recommendations on the major provisions in the EFH Proposed Rule and the Technical Assistance Manual; to discuss marine biodiversity and how the Council may address it.

May 29, 1997, 8:30 a.m. to 5:00 p.m.

The Habitat AP will meet to discuss and specify major habitat types for the Council Habitat Plan and Policy Statement development, including coral, coral reefs and live/hard bottom habitat; mangrove, seagrass, and wetland habitats; oyster/shell habitat; and sargassum habitat. The AP will discuss other business before adjourning.

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 May 21, 1997.

Dated: May 14, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–13165 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

Notice of Public Meeting on the Proposed Experimental Program To Stimulate Competitive Technology (ESPCoT)

SUMMARY: The Technology Administration will hold an open meeting on June 16, 1997 to solicit input on the proposed Experimental Program to Stimulate Competitive Technology (EPSCoT) from representatives of state and local government, universities, and the private- and non-profit sectors, who are involved with technology development, diffusion, commercialization, and using technology to promote economic growth. The purpose of the meeting is to determine what activities are currently being conducted in the states to foster technology-based economic growth and how a new competitive, cost-shared federal grant program with the mission of fostering the development of indigenous technology assets in states that are traditionally under represented in Federal R&D funding could be structured. The following states would currently be eligible to participate in the EPSCoT: Alabama, Arkansas, Idaho, Kansas, Kentucky, Louisiana, Maine, Mississippi, Montana, Nebraska, Nevada, North Dakota, Oklahoma, South Carolina, South Dakota, Vermont, West Virginia, and Wyoming, as well as the Commonwealth of Puerto Rico.

DATES: The meeting will be held on June 16, 1997 from 8:00 a.m. until 11:00 a.m.

ADDRESSES: The meeting will be held at the Sheraton Billings Hotel in Billings, Montana. Individuals wishing to attend the meeting should contact Maureen Wood, Office of the Under Secretary for Technology, at (202) 482–1091 by close of business June 12, 1997.

FOR FURTHER INFORMATION CONTACT: Marc Cummings, Technology Administration, U.S. Department of Commerce at (202) 482–8323.

SUPPLEMENTARY INFORMATION: The Technology Administration (TA) is proposing a new, competitive, matching grant program called the Experimental Program to Stimulate Competitive Technology (ESPCoT) to foster the development of indigenous technology assets in states that traditionally have been under represented in the distribution of Federal R&D expenditures.

Technology is the engine of economic growth and, as such, its development, deployment, and diffusion are critical to U.S. competitiveness. Although it is often said that nations do not compete, companies do, it is apparent that sub-national units—regions within states and clusters of states—do compete, not simply with one another, but also internationally. This is because in a global economy, capital, labor, and technology are increasingly mobile and they are attracted to regions with the most promising opportunities. To this end, regional policies and infrastructures play a large role in determining both where companies locate and their ability to be competitive in a global marketplace.

Commerce Department research shows that firms that adopt advanced technologies create more jobs at higher wages than those that do not. Furthermore, regions that boast concentrations of high-tech industries enjoy high growth rates and standards of living. Regions thus compete to attract federal research facilities, private investment, and skilled labor. Recent research suggests that a region's technological infrastructure is among the most important factors that businesses consider when making location decisions. Accordingly, regions are searching for strategies to attract and retain high-tech firms and the jobs that they bring. These strategies may involve building on existing strengths at research universities, providing extension services to local businesses, or integrating existing business assistance resources, but ultimately their success is contingent upon an institutional capacity to support technology-based economic development.

In the Federal government's efforts to foster competitiveness, it must ensure that all regions of the nation develop the necessary infrastructure to support indigenous technology development. Most less populated states, whose manufacturers tend to be small- and medium-sized, are at a competitive disadvantage because there is generally no research base on which local businesses can build. The ESPCoT seeks to remedy this disadvantage.

The EPSCoT seeks to build on the NSF's successful Experimental Program to Stimulate Competitive Research (EPSCoR) which was established in 1979 to stimulate sustainable improvements in the quality of the academic science and technology infrastructure of states that traditionally have been under represented in receiving federal R&D funds. Within these states, the EPSCoR's primary emphasis is on improving the competitive performance of major research universities. By focusing on building the science base of these regions, primarily in universities, the EPSCoR has successfully strengthened the research capacity of universities in these states; yet, there remains a technology "gap."

Improving the competitive performance of universities, which is an essential component of a successful technology-based economy, is often not sufficient to establish new companies, develop new job opportunities or raise the standard of living.

This why the Department of Commerce proposes to create an EPSCoT—the technology counterpart to the EPSCoR. EPSCoT would help to bridge the gap between university research and the local economy. It would develop essential economic development tools to foster regional technology-based economic growth. The program would stimulate the development of indigenous technological infrastructure and institutional capabilities of states through a variety of means, including outreach activities, technology development and deployment, technology transfer, education and training, and better linking universities, firms, and state and local governments.

Dated: May 14, 1997.

Mary Good,

Under Secretary for Technology.

[FR Doc. 97–13094 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

May 15, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: May 21, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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 or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being increased, variously, for swing and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 62 FR 6950, published on February 14, 1997.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but is designed to assist only in the implementation of its provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 15, 1997.

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 February 10, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products and silk apparel, produced or manufactured in China and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997.

Effective on May 21, 1997, you are directed to increase the limits for the following categories, as provided for under the terms of the bilateral agreement between the Governments of the United States and the People's Republic of China:

Category	Twelve-month limit [1]
Group I	
200, 218, 219, 226, 237, 239, 300/301, 313–315, 317/326, 331, 333–336, 338/339, 340–342, 345, 347/348, 350–352, 359–C [2], 359–V [3], 360–363, 369–D [4], 369–H [5], 369–L [6], 410, 433-436, 438, 440, 442–444, 445/446, 447, 448, 607, 611, 613–615, 617, 631, 633–636, 638/639, 640–643, 644/844, 645/646, 647–652, 659–C [7], 659–H [8], 659–S [9], 666, 669–P [10], 670–L [11], 831, 833, 835, 836, 840, 842 and 845–847, as a group.	1,474,852,906 square meters equivalent.
Sublevels in Group I	
200	730,447 kilograms.
218	11,593,595 square meters.
219	2,473,374 square meters.
226	11,230,919 square meters.
237	2,000,327 dozen.
239	3,106,866 kilograms.
300/301	2,376,021 kilograms.
313	43,549,095 square meters.
314	50,579,806 square meters.
315	132,431,821 square meters.
317/326	21,759,198 square meters of which not more than 4,162,962 square meters shall be in Category 326.
331	5,337,041 dozen pairs.
333	99,981 dozen.
334	338,379 dozen.
335	411,356 dozen.
336	173,817 dozen.
338/339	2,472,536 dozen of which not more than 1,841,842 dozen shall be in Categories 338–S/339–S [12].
340	836,266 dozen of which not more than 418,134 dozen shall be in Category 340–Z [13].
341	711,075 dozen of which not more than 426,645 dozen shall be in Category 341–Y [14].
342	277,158 dozen.
345	134,943 dozen.
347/348	2,454,034 dozen.
350	167,677 dozen.
351	558,067 dozen.
352	1,710,611 dozen.
359–C	605,285 kilograms.
359–V	916,346 kilograms.
360	7,908,948 numbers of which not more than 5,293,831 numbers shall be in Category 360–P [15].
361	4,401,221 numbers.
362	7,381,430 numbers.
363	22,453,380 numbers.
369–D	4,890,455 kilograms.
369–H	5,105,427 kilograms.
369–L	3,384,369 kilograms.
410	1,047,917 square meters of which not more than 840,019 square meters shall be in Category 410–A [16] and not more than 840,019 square meters shall be in Category 410–B [17].
433	22,088 dozen.
434	13,860 dozen.
435	25,456 dozen.
436	15,982 dozen.
438	27,444 dozen.
440	39,955 dozen of which not more than 22,831 dozen shall be in Category 440–M [18].
442	42,295 dozen.
443	134,087 numbers.
444	212,981 numbers.
445/446	307,593 dozen.
447	73,412 dozen.
448	23,159 dozen.
607	3,332,498 kilograms.
611	5,422,024 square meters.
613	7,818,294 square meters.
614	12,285,890 square meters.
615	25,576,990 square meters.
617	17,536,359 square meters.
631	1,312,969 dozen pairs.
633	58,440 dozen.
634	635,789 dozen.
635	670,647 dozen.
636	568,712 dozen.
638/639	2,508,267 dozen.
640	1,463,325 dozen.
641	1,365,473 dozen.
642	339,277 dozen.
643	527,424 numbers.
644/844	3,867,313 numbers.
645/646	862,877 dozen.
647	1,616,855 dozen.
648	1,155,232 dozen.
649	947,847 dozen.
650	117,436 dozen.
651	788,715 dozen of which not more than 138,858 dozen shall be in Category 651–B [19].
652	2,772,260 dozen.
659–C	425,507 kilograms.
659–H	2,935,901 kilograms.

Category	Twelve-month limit [1]
659–S	636,433 kilograms.
666	3,685,179 kilograms of which not more than 1,286,250 kilograms shall be in Category 666–C [20].
669–P	2,077,336 kilograms.
670–L	16,224,327 kilograms.
831	560,703 dozen pairs.
833	29,166 dozen.
835	126,576 dozen.
836	289,572 dozen.
840	501,766 dozen.
842	279,162 dozen.
846	187,869 dozen.
847	1,321,279 dozen.
Group III	
201, 220, 222, 223, 224–V [21], 224–O [22], 225, 227, 229, 369–O [23], 400, 414, 464, 465, 469, 600, 603, 604–O [24], 606, 618–622, 624–629, 665, 669–O [25] and 670–O [26], as a group.	258,858,249 square meters equivalent.
Levels not in a Group	
369–S [27]	623,606 kilograms.
863–S [28]	8,747,164 numbers.
870	33,593,729 kilograms.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[3] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.30.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[4] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[5] Category 369–H: only HTS numbers 4202.22.4020, 4202.22.4500 and 4202.22.8030.

[6] Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6090.

[7] Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[9] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[10] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[11] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025.

[12] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[13] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.

[14] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[15] Category 360–P: only HTS numbers 6302.21.3010, 6302.21.5010, 6302.21.7010, 6302.21.9010, 6302.31.3010, 6302.31.5010, 6302.31.7010 and 6302.31.9010.

[16] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[17] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

[18] Category 440–M: HTS numbers 6203.21.0030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.3020, 6205.90.4020 and 6211.31.0030.

[19] Category 651–B: only HTS numbers 6107.22.0015 and 6108.32.0015.

[20] Category 666–C: only HTS number 6303.92.2000.

[21] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[22] Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V).

[23] Category 369–O: all HTS numbers except 6302.60.0010, 6302.91.0005 and 6302.91.0045 (Category 369–D); 4202.22.4020, 4202.22.4500, 4202.22.8030 (Category 369–H); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369–L); and 6307.10.2005 (Category 369–S)

[24] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[25] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P).

[26] Category 670–O: only HTS numbers 4202.22.4030, 4202.22.8050 and 4202.32.9550.

[27] Category 369–S: only HTS number 6307.10.2005.

[28] Category 863–S: only HTS number 6307.10.2015.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–13216 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Flammability Standards for Clothing Textiles and Vinyl Plastic Film

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the Federal Register of February 10, 1997 (62 FR 5961), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the agency's intention to seek reinstatement of approval of a collection of information in regulations implementing the flammability standards for clothing textiles and vinyl plastic film. The regulations prescribe requirements for testing and recordkeeping by persons and firms issuing guaranties of garments, fabrics, and related materials subject to the Standard for the Flammability of Clothing Textiles (16 CFR part 1610) and the Standard for the Flammability of Vinyl Plastic Film (16 CFR part 1611). No comments were received in response to that notice. By publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget a request for reinstatement of approval of those collections of information without change through July 31, 2000.

Additional Information About the Request for Reinstatement of Approval of Collections of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Standard for the Flammability of Clothing Textiles, 16 CFR part 1610;

Standard for the Flammability of Vinyl Plastic Film, 16 CFR part 1611.

Type of request: Reinstatement of approval without change.

General description of respondents: Manufacturers and importers of garments, fabrics, and related materials subject to the flammability standards for clothing textiles and vinyl plastic film.

Estimated number of respondents: 1000.

Estimated average number of hours per respondent: 101.6 per year.

Estimated number of hours for all respondents: 101,600 per year.

Comments: Comments on this request for reinstatement of approval of a collection of information should be sent within 30 days of publication of this notice to Victoria Wassmer, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, telephone: (202) 395–7340; and to Robert E. Frye, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0416, extension 2243. Copies of the request for reinstatement of approval of a collection of information and supporting documentation are available from the Office of Planning and Evaluation, Consumer Product Safety Commission.

Dated: May 13, 1997.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 97–13208 Filed 5–19–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and Associated Forms: Third Party Collection Program (Insurance Information) DD Form 2569, OMB Number 0704–0323.

Type of Request: Reinstatement With Change.

Number of Respondents: 74,224.

Responses per Respondent: 1.

Annual Responses: 74,224.

Average Burden per Response: 2.5 minutes.

Annual Burden Hours: 3,043.

Needs and Uses: The information contained in the DD Form 2569 will be used to collect reimbursement from private insurers for medical care provided to family members of retired and deceased Service members having health insurance. Such monetary benefits accruing to the Military Medical Treatment Facility (MTF) will be used to enhance healthcare delivery in the MTF. Information will also be used by MTF staff and CHAMPUS Fiscal Intermediaries to determine eligibility for care, deductibles, and copayments and by Health Affairs for program planning and management.

Affected Public: Individuals or Households.

Frequency: On Occasion; Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Allison Eydt.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eydt at the Office of Management and Budget, Desk Officer for DoD/CHAMPUS, Room 10235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 14, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13107 Filed 5–19–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission of OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and Association Form: Applocation for Department of the Army Permit, ENG Form 4345, OMB Number 0710–0003.

Type of Request: Reinstatement With Change.

Number of Respondents: 15,500.

Responses per Respondents: 1.

Annual Responses: 15,500.

Average Burden per Response: 5 hours.

Annual Burden Hours: 77,500.

Needs and Uses: The information collection is used to evaluate applications for permits to conduct work in navigable waters under Sections 9 and 10 of the Rivers and Harbors Act; permits for the discharge of dredged or fill material into water of the United States under Section 404 of the Clean Water Act; and permits for the transportation of dredged or fill material for the purpose of ocean disposal under Section 103 of the Marine Protection, Research, and Sanctuaries Act (Ocean Dumping). Information collected describes proposed construction or filling in U.S. waters. Projects are evaluated to determine if issuance of a permit will damage the environment or impact other property. Respondents are private landowners, businesses, non-profit organizations, and government.

Affected Public: Individuals or Households; Business or Other For—Profit; Not-For-Profit Institutions; Farms State, Local, and Tribal Government.

Frequency: On Occasion.

Respondent: Obligation: Mandatory.

OMB Desk Officer: Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for U.S. Army COE, Room 10202, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 14, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13108 Filed 5–19–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 97–15]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Assistance Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the

requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/FPD, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 97–15, with attached transmittal, policy justification, and sensitivity of technology pages.

Dated: May 14, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Defense Security Assistance Agency

Honorable Newt Gingrich
Speaker of the House of Representatives, Washington, DC 20515–6501

Dear Mr. Speaker: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 97–15, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Australia for defense articles and services estimated to cost $27 million. A notification for Section 36(c)(1), of the Arms Export Control Act, will be forwarded separately, by State Department, regarding the direct commercial sale for the upgrade of these helicopters to the SH–2G configuration. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Thomas G. Rhame,

Lieutenant General, USA, Director.

Attachments—Same ltr to:
House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 97–15

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) *Prospective Purchaser*: Australia.
(ii) *Total Estimated Value*:

	Million
Major Defense Equipment*	$24
Other	3
Total	27

*As defined in Section 47(6) of the Arms Export Control Act.

(iii) *Description of Articles or Services Offered:* Twenty-nine excess SH–2F/G LAMPS MK 1 helicopters, spare and repair parts, support equipment, personnel training and training equipment, publications and technical data, and technical support and other related elements of logistics support.

(iv) *Military Department*: Navy (SCE)
(v) *Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid*: None.
(vi) *Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold*: See Annex attached.
(vii) *Date Report Delivered to Congress:* May 9, 1997.

Policy Justification

Australia—SH–2F/G LAMPS MK 1 Helicopters

The Government of Australia has requested the purchase of 29 excess SH–2F/G LAMPS MK 1 helicopters, space and repair parts, support equipment, personnel training equipment, publications and technical data, and technical support and other related elements of logistics support. The estimated cost is $27 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Pacific region.

The Royal Australian Navy will use these helicopters in a maritime patrol for surface surveillance and defense. Australia will have no difficulty absorbing these helicopters into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Kaman Aerospace Corporation, Bloomfield, Connecticut. There are no offset agreements proposed to be entered into in connection with this potential sale.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Australia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

Transmittal No. 97–15—Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(B)(1) of the Arms Export Control Act

Annex—Item No. vi

(vi) *Sensitivity of Technology*:

1. The SH–2F/G LAMPS MK 1 ASW helicopter configuration proposed for this sale will not contain any classified equipment or components.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware in this sale, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 97–13111 Filed 5–19–97; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Defense Acquisition University.

ACTION: Board of visitors meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at the Defense Systems Management College (DSMC), 9000 Belvoir Road, Building 184, Fort Belvoir, Virginia on Friday, June 20, 1997 from 0830 until 1600. The purpose of this meeting is to report back to the BoV on continuing items of interest; discuss the DAU technology-based education initiatives; and present the DAU Vision. The agenda will include continuing discussions concerning acquisition research, development of faculty productivity measures, and the development of the DAU vision and strategic program plan.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere at (703) 805–5134.

Dated: May 14, 1997.

L.M. Bynum,

Alternate OSD Federal Liaison Officer, Department of Defense.

[FR Doc. 97–13109 Filed 5–19–97; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board will meet in closed session on August 4–15, 1997 at the Beckman Center, Irvine, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At that time the Board will examine the substance, interrelationships, and the U.S. national security implications of one critical area identified and tasked to the Board by the Secretary of Defense, Deputy Secretary of Defense, and Under Secretary of Defense for Acquisition and Technology. The subject area is: DoD Responses to Transnational Threats. The period of study is anticipated to culminate in the formulation of specific recommendations to be submitted to the Secretary of Defense, via the Under Secretary of Defense for Acquisition and Technology, for his consideration in determining resource policies, short- and long-range plans, and in shaping appropriate implementing actions as they may affect the U.S. national defense posture.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: May 14, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13104 Filed 5–19–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Advanced Modeling and Simulation for Analyzing Combat Concepts in the 21st Century

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Advanced Modeling and Simulation for Analyzing Combat Concepts in the 21st Century will meet in closed session on May 21–22, 1997 at Kirtland AFB, New Mexico. In order for the Task Force to obtain time sensitive classified briefings, critical to the understanding of the issues, this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will address modeling and simulation capabilities required for analyzing concepts for 21st century military combat operations. These capabilities should encompass the breadth of warfare from strategic to individuals fighting afoot for all phases of military operations (Air, Land, Sea, Information, Communications).

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. § 552b(c) (1) (1994), and that accordingly this meeting will be closed to the public.

Dated: May 14, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13105 Filed 5–19–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Stealth Technology and Future S&T Investments

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Stealth Technology and Future S&T Investments will meet in closed session on May 16, June 3–4, and July 8–9, 1997 at Science Applications International Corporation, 4001 N. Fairfax Drive, Arlington, Virginia. In order for the Task Force to obtain time-sensitive classified briefings, critical to the understanding of the issues, these meetings are scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will explore the relationships between low observable and electronic warfare technologies in providing future weapon system survivability.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: May 14, 1997.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13106 Filed 5–19–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Court of Appeals for the Armed Forces Proposed Rule Changes

ACTION: Notice of Proposed Changes to the Rules of Practice and Procedure of the United States Court of Appeals for the Armed Forces.

SUMMARY: This notice announces the following proposed changes to Rules 15(f), 8(f), 19 (d) and (e), 25, and 27 of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces for public notice and comment:

Proposed Revision to Rule 15

Rule 15. Disciplinary Action

Revise Subsection (f) as Follows

(f)(1) (as text presently is in current Rule 15(f)).

(f)(2) [new] When it has been shown to the Court that a member of the Bar of the Court has been convicted by court-martial or by other court of competent jurisdiction of conduct which evidences a failure to comply with the Model Rules of Professional Conduct and such conviction has become final, the Court may, in lieu of the complaint and investigative procedures set forth in subsections (b) through (e), initiate a disciplinary action under this rule by issuance of an order to such person to show cause why the person should not be disbarred. Upon the filing of the member's answer to an order to show cause, or upon expiration of 30 days if no answer is filed, the Court will set the matter for hearing, giving the member due notice thereof, or enter such other order as may be deemed appropriate; but no order of disbarment or suspension will be entered except with the concurrence of a majority of the judge participating.

Proposed Revisions to Rules 8(f), 19 (d) and (e), 25 and 27

Rule 8. Parties

Amend Rule 8(f) to read as follows:

(f) The party or parties filing a petition for extraordinary relief with the

Court will be deemed the petitioner or petitioners. All parties to the proceeding below other than the petitioner or petitioners will be deemed respondents for all purposes.

Rule 19. Time Limits

Delete from Rule 19(d) the phrase "with a supporting brief and any available record." Add the sentence, "The Court will, whenever practicable, give priority to such cases."

Delete from Rule 19(e) the phrase, "together with any available record" and the sentence, "Unless it is filed in propria persona, such writ appeal petition shall be accompanied by a supporting brief." Add the sentence, "The Court will, whenever practicable, give priority to such cases."

Rule 25. When Briefs Are Required

Delete the phrase "petitions for extraordinary relief and writ appeal petitions."

Rule 27. Petition for Extraordinary Relief, Writ Appeal Petition, Answer, and Reply

(a) Petitions for Extraordinary Relief

(1) A petition for extraordinary relief shall be filed within the time prescribed by Rule 19(d), shall conform in length to Rule 24(b), and, in accordance with Rule 39, be accompanied by proof of service on all respondents. The petitioner shall also provide a copy of the petition to any trial or appellate military judge whose decision, judgment, or order is the subject of the petition.

(2)(A) The petition for extraordinary relief shall be captioned "In Re [name of petitioner]."

(B) The petition shall contain:

(i) A history of the case including whether prior actions or requests for the same relief have been filed or are pending in this or any other forum and the disposition or status thereof;

(ii) the reasons relief has not been sought from the appropriate Court of Criminal Appeals, if that is the case (see Rule 4(b)(1));

(iii) the relief sought;

(iv) the issues presented;

(v) the facts necessary to understand the issues presented by the petition;

(vi) the reasons why the writ should issue;

(vii) the mailing address, telephone and facsimile telephone numbers of each respondent.

(C) The petition shall include copies of any order or opinion or parts of the record that may be essential to understand the matters set forth in the petition.

(D) Service on Judge Advocate General. The Clerk shall forward a copy of the petition to the Judge Advocate General of the service in which the case arose.

(3) Denial; Order Directing Answer; Briefs; Precedence.

(A) The Court may deny the petition without answer. Otherwise, it may order the respondent or respondents to answer within a fixed time. The Court may also take any other action deemed appropriate, including referring the matter to a special master, who may be a military judge or other person, to make further investigation, to take evidence, and to make such recommendations to the Court as are deemed appropriate. See United States v. DuBay, 17 U.S.C.M.A. 147 (1967).

(B) When the Court directs that an answer be filed, two or more respondents may answer jointly.

(C) The Court may invite or order any trial or appellate military judge whose decision, judgment or order is the subject of the petition to respond or may invite an amicus curiae to do so. A trial or appellate military judge may request permission to respond but may not respond unless invited or ordered to do so by the Court.

(D) The court may set the matter for hearing. However, the Court may grant or deny the relief sought or issue such other order in the case as the circumstances may require on the basis of the pleadings alone.

(E) If further briefing or oral argument is required, the Clerk shall advise the parties and, when appropriate, any judge or judges or amicus curiae.

(4) Electronic message petitions.

The Court will not docket petitions for extraordinary relief submitted by means of an electronic message or by facsimile without prior approval of the Clerk.

(b) Writ Appeal Petition, Answer and Reply

A writ appeal petition for review of a decision by a Court of Criminal Appeals acting on a petition for extraordinary relief shall be filed by an appellant, together with any available record, including the items specified by subsection (a)(2)(C), within the time prescribed by Rule 19(e), shall be accompanied by proof of service on the appellee, and shall contain the information required by subsection (a)(2)(B). The appellee shall file an answer no later than 10 days after the filing of the writ appeal petition. A reply may be filed by the appellant no later than 5 days after the filing of the appellee's answer. *See* Rules 28(b)(2) and (c)(2). Upon the filing of pleadings by the parties, the Court may grant or deny the writ appeal petition or take such other action as the circumstances may require.

Rules Advisory Committee Comment on Proposed Rule 15(f)

The proposed revision to Rule 15(f) establishes an alternative procedure for the initiation of a disciplinary action that would apply when a member of the Bar is convicted by court-martial or by other court of competent jurisdiction and the conviction has become final. If the conviction evidences conduct that constitutes a failure to comply with the ABA Model Rules of Professional Conduct, the Court may, *sua sponte*, commence a disciplinary action by issuing an order to show cause why the member of the Bar should not be disbarred. The proposed revision allows the Court, at its discretion, to avoid formal investigations in cases where a record has already been developed through a judicial criminal process and there has already been a conviction that has become final.

The rule is consistent with the prior practice of the Court. In In Re Trimper, Special Docket No. 89–04, the Court issued such an order to show cause without first referring the matter to the Investigations Committee under the current provisions of Rule 15(b)–(e). The order was issued to an active duty military lawyer, after the Court affirmed his court-martial conviction for wrongful use of drugs.

Rules Advisory Committee Comment on Proposed Revisions to Rules 8(f), 19(d) and (e), 25 and 27

The purpose of the proposed revisions to Rules 8(f) and 27 is to clarify, in the context of extraordinary writ practice, the identities of petitioners and respondents and the responsibilities of such parties. Such revisions also clarify the roles, in responding to petitions for extraordinary relief, of trial and appellate military judges whose decisions, judgments, or orders are at issue. Finally, the revisions seek to make these rules conform, as closely as possible, to recent revisions of Fed. R. App. P. 21 (Writs of Mandamus and Prohibitions, and Other Extraordinary Writs), effective December 1, 1996, *See* 924 F. Supp. No. 3 at CCXXVII (July 1, 1996).

The revision to Rule 8(f) makes it clear that any party below, who is not the moving party, shall be deemed a respondent. *See* Fed. R. App. P. 21(a)(1). The proposed revision, however, is not intended to preclude a respondent from being realigned as a petitioner in an appropriate case.

As revised, Rule 27(a)(1) requires that the petitioner provide a copy of the petition to any trial or appellate military judge whose decision, judgment, or order is the subject of the petition. The purpose of this requirement is to alert the judge or judges to the filing of the petition, a necessity because members of the lower court are not treated as respondents and are therefore not served. This revision conforms to revised Fed. R. App. P. 21(a)(1).

As revised, Rule 27(a)(2)(A) requires that the caption of the petition merely identify the moving party rather than the name of the judge or judges whose order is subject to challenge, as has been the practice in some cases. In this respect, the amendment clarifies that such judge or judges are not to be considered or treated as respondents.

Revised Rule 27(a)(2) (B) and (C) modifies those subsections to conform more closely to Fed. R. App. P. 21(a)(2) (B) and (C) in connection with the required contents of a petition for extraordinary relief. In substance, the revision does not deviate substantially from the Court's present Rule 27(a)(1).

In contrast with the Court's present Rule 27(a)(3), the revision adopts the federal practice of dispensing with separate briefs accompanying petitions for extraordinary relief. The submission of such multiple pleadings fosters redundancy and is inconsistent with the time-sensitive context in which such petitions are typically filed. Any necessary legal argument is properly contained in the explanation of why the writ should issue in subsection (a)(2)(B). In the event the Court deems supplemental briefing necessary following the submission of the petition and any answer, the revised rule affords ample authority to direct such briefings. *See* draft Rule 27(a)(3) (A) and (E). Should this revision be adopted, Rule 19(d) which is captioned "Time Limits" will have to be revised to delete reference to the submission of supporting briefs. References to submission of "any available record" in these rules is also unnecessary as such a requirement is imposed by Rule 27(a)(2)(C), as revised. Rule 25, which is captioned "When Briefs Are Required," will likewise have to be revised to omit reference to petitions for extraordinary relief.

Revised Rule 27(a)(3) has been drafted to conform more closely to Fed. R. App. P. 21(b). Subsections (a)(3) (B) and (E) are new. Subsections (a)(3)(C) clarifies the responsibilities of a trial or appellate military judge or judges whose decision, judgment, or order is the subject of a petition for extraordinary relief. It anticipates that the views of such judge or judges will normally have been stated on the record or in an order in the usual course and that, as in a direct appeal, the lower court's interest in defending such an order will ordinarily be fulfilled by the prevailing party. Accordingly, in language adopted from Fed. R. App. P. 21(b)(4), it makes clear that such judge or judges are not expected to respond to a petition and have no right to respond except in the extraordinary instance where invited or ordered to do so by the Court. The Committee recognizes that there may be instances where the respondent chooses not to defend the decision of the trial or appellate military judge whose decision is the subject of the petition. *United States* v. *Harper*, 729 F. 2d 1216, 1217 (9th Cir. 1984) (noting refusal by government to defend, in a mandamus proceeding, order of district court). In such instances, the proposed rule permits that judge to request permission to respond on his own behalf. The Court has discretion whether to permit such a response by or on behalf of a judge.

It is the view of the Rules Advisory Committee that, due to the mobility of sitting military trial judges, as well as former military appellate judges, the Judge Advocates General are better situated than the Court to ensure that such judges are promptly notified of orders granting or denying extraordinary relief. Accordingly, in contrast with Fed. R. App. P. 21(b)(7), the revised Rule makes no provision for such service by the Court. *See* Rule 43(b).

As revised, Rule 27(b) eliminates, for the reasons set out above, the requirement that separate briefs accompany writ appeal petitions. As in the case of petitions filed in the first instance, writ appeal petitions should ordinarily contain ample legal analysis to permit disposition without further briefing. Should this revision be adopted, Rules 19(e) and 25 will have to be amended to omit reference to the submission of briefs in connection with writ appeal petitions.

Rule 27(a)(4) has been revised to preclude the submission of petitions for extraordinary relief by electronic means, including facsimile, except by authorization of the Clerk. When counsel in the field find it necessary to submit, by electronic means, a petition for immediate transmission to the Court, it should normally be transmitted to the Chief of the Appellate Defense Division or the Appellate Government Division, as appropriate, within the Office of the Judge Advocate General of petitioner's service, with copies to all named respondents and to any trial or appellate military judge whose decision, judgment, or order is the subject of the petition, in accordance with subsection (a). Upon receipt, the appropriate Appellate Division will reproduce the submission and it will be filed by an appellate counsel appointed within such office in accordance with Rule 37.

Finally, Rules 19(d) and 19(e) have been amended to afford a preference in disposition to petitions for extraordinary relief and writ appeal petitions.

* * * * *

DATES: Comments on the proposed changes must be received by July 21, 1997.

ADDRESSES: Forward written comments to Thomas F. Granahan, Clerk of Court, United States Court of Appeals for the Armed Forces, 450 E Street, Northwest, Washington, DC 20442–0001.

FOR FURTHER INFORMATION CONTACT: Thomas F. Granahan, Clerk of Court, telephone (202) 761–1448 (x600).

Dated: May 14, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–13110 Filed 5–19–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Grant of Exclusive License

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Correction.

SUMMARY: In previous **Federal Register** notice (Vol. 62, No. 65, pages 16143–16144) Friday, April 4, 1997 make the following correction:

On Page 16143, at the bottom of the column chart (under the country titled "Portugal"), add the following Country, Application No., and Filed date:

Country	Application No.	Filed
Spain ..	(EP) 94926514.4	Aug. 17, 1994.

The above information was inadvertently omitted from the publication.

ADDRESSES: U.S. Army Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180–6199.

FOR FURTHER INFORMATION CONTACT: For further information contact Mr. Phil Stewart (601) 634–4113.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–13140 Filed 5–19–97; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of closed teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference of the Executive Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general pubic of their opportunity to attend.

Date: May 27, 1997.

Time: 10:30–11:30 a.m. (et).

Location: 800 North Capital Street, NW, Suite 825, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994), (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

On May 27, 1997 between the hours of 10:30 a.m. to 11:30 a.m. the Executive Committee will meet by teleconference. The Committee will be taking action on personnel appointments for the positions of Executive Director, Deputy Executive Director, and Assistant Director for Psychometrics. The Committee will discuss the qualifications of the individuals recommended for appointment. These discussions will relate solely to the internal personnel rules and practice of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C.

A summary of the activities of the meeting and related matters, which are informative to the public, consistent with policy of 5 U.S.C. 552b, will be available to the public within fourteen days after the meeting.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite 825, 800 North Capitol Street, N.W., Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 97–13103 Filed 5–19–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–283–002]

Columbia Gulf Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

May 14, 1997.

Take notice that on May 9, 1997, Columbia Gulf Transmission Company (Columbia Gulf) filed a motion to place its tariff sheets into effect on May 1, 1997, and tendered for filing the revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, listed on Appendix A, attached to the filing. The revised tariff sheets bear an issue date of May 9, 1997, and a proposed effective date of May 1, 1997.

Columbia Gulf states that the revised filing is being made in accordance with the Commission's Order issued December 18, 1996 and April 24, 1997 in this proceeding and Section 154.206 of the Commission's regulations (18 CFR Section 154.206). The tariff sheets on Appendix A reflect the changes required by the April 24, 1997 Order. Columbia Gulf is also moving into effect the tariff sheets identified separately on Appendix B, attached to the filing, which were accepted and suspended effective May 1, 1997 pursuant to the December 18, 1996 Order.

Columbia Gulf states that copies have been mailed to Columbia Gulf's firm customers and interruptible customers, affected state regulatory commissions, and to each of the parties set forth on the official service list in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. A copy of Columbia Gulf's filing is on file with the Commission and is available for public inspection in the Commission's Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13134 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2595–000]

Commonwealth Edison Company, Notice of Amended Filing

May 14, 1997.

Take notice that on April 30, 1997, Commonwealth Edison Company (ComEd) submitted an amended filing in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 27, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13122 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–128–000 and RP97–231–000]

Eastern Shore Natural Gas Company; Notice of Technical Conference

May 14, 1997.

Take notice that a technical conference will be convened in the above-docketed proceeding on Thursday, May 22, 1997, at 9:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426. Any party, as defined in 18 CFR 385.102(c), any person seeking intervenor status pursuant to 18 CFR 385.214, and any participant, as defined in 18 CFR 385.102(b), is invited to participate.

For additional information, please contact Carolyn Van Der Jagt, 202–208–2246, or Tom Gooding, 202–208–1123, at the Commission.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 97–13131 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–32–000 and CP96–128–000]

Eastern Shore Natural Gas Company; Notice of Informal Settlement Conference

May 14, 1997.

Take notice that an informal settlement conference in this proceeding will be convened on Thursday, May 22, 1997, at 1:00 p.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, for the purpose of exploring the possible settlement of the above referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Thomas J. Burgess at (202) 208–2058 or Robert A. Young at (202) 208–5705.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13136 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–300–002 and RP97–8–002]

Granite State Gas Transmission, Inc.; Notice of Compliance Tariff Filing

May 14, 1997.

Take notice that on May 9, 1997, Granite State Gas Transmission, Inc. (Granite State) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed below, for effectiveness on April 1, 1997:

Second Substitute Eighth Revised Sheet No. 21
Second Substitute Ninth Revised Sheet No. 22
Substitute Eighth Revised Sheet No. 23

According to Granite State, the above listed revised tariff sheets have been submitted in compliance with the directive in a Letter Order issued on April 25, 1997 in Docket No. RP97–8–000. In that order, Granite State was directed to reduce its motion rates, effective April 1, 1997, to reflect the elimination of certain estimated electric power costs in the cost of service underlying the motion rates because the Commission had accepted a tracking mechanism, in Docket No. RP97–300–000, also effective on April 1, 1997, to allow Granite State to charge and collect the electric power costs from its customers.

According to Granite State, copies of its filing were served on its firm and interruptible customers, the regulatory agencies of the States of Maine, Massachusetts and New Hampshire and the parties on the official service list maintained by the Secretary in Docket No. RP97–8–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rule 211 (18 CFR 385.211) of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13138 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–27–000]

Gulf States Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 14, 1997.

Take notice that on May 7, 1997, Gulf States Transmission Corporation (GSTC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets to be effective June 1, 1997:

First Revised Sheet No. 3
First Revised Sheet No. 60
First Revised Sheet No. 65

GSTC states that the purpose of the filing is to reflect in its FERC gas tariff the fact that it has added a new receipt point under its Subpart F Blanket Certificate. The new receipt is at the Waskom Gas Processing Plant, and is connected to GSTC's current 20" pipeline system through a recently constructed 4.0 mile 12" diameter supply lateral. GSTC also states that at present there is no rate differential between the Waskom receipt point and its original receipt point located in Harrison County, Texas, which is still in operation.

GSTC states that copies of the filing are being mailed to its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13133 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–320–011]

Koch Gateway Pipeline Company; Notice of Compliance Filing

May 14, 1997.

Take notice that on May 9, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet in to be effective April 1, 1997:

Substitute Sixth Revised Sheet No. 29

Koch is submitting the above-referenced tariff sheet pursuant to the Commission's Letter Order issued in the captioned proceeding on May 1, 1997. As directed, Koch revised the tariff to specify the publication that reports the designated indices and to clarify that the names of the indices as written in the tariff are identical to the names as reported in the publication. Specifically, the Henry Hub daily mid point will be taken from the Gas Daily publication where this index is listed as "Daily Midpoint" for Henry Hub. The June Nymex Contract roll price will also be listed in the Gas Daily publication as the "June Settlement" under the Nymex Henry Hub section.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriation action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13135 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Koch Gateway Pipeline Company; Notice of Compliance Filing

May 14, 1997.

Take notice that on May 9, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective January 1, 1997:

2nd Sub Second Revised Sheet No. 1410

Koch states that the revised tariff sheet is filed to comply with the Commission's Order on Rehearing issued on May 5, 1997, in Docket No. RP97–116–002. As directed, Koch revised the tariff sheets to allow Customers requesting new firm transportation thirty (10) days to execute a service agreement after its tender by Koch if the term of contract is greater than one year. For requests with contract terms of less than or equal to one year, Customers will have two (2) business days after tender by Koch to execute a new service agreement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's regulations. All such protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13137 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–579–000]

Madison Gas & Electric Company; Notice of Filing

May 14, 1997.

Take notice that on April 25, 1997, Madison Gas and Electric Company (MGE) tendered for filing with the Federal Energy Regulatory Commission its First Revised Transmission Tariff in compliance with FERC Order No. 888A.

MGE states that a copy of the filing has been provided to the Public Service Commission of Wisconsin and the parties contained on the service list for this docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed before May 27, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13124 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2723–000]

Maine Public Service Company; Notice of Filing

May 14, 1997.

Take notice that on April 28, 1997, Maine Public Service Company submitted a Quarterly Report of Transactions for the period January 1 through March 31, 1997. This filing was made in compliance with Commission orders dated May 31, 1995 (Docket No. ER95–851) and April 30, 1996 (Docket No. ER96–780).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 27, 1997. Protests will be considered by the Commission in determining he appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the

Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13123 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1–000]

Northern States Power Company (Wisconsin Company); Notice of Filing

May 14, 1997.

Take notice that on May 5, 1997, Northern States Power Company (NSP) tendered its Amendment No. 1 in the above referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13118 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1007–000]

Northern States Power Company (Minnesota Company); Notice of Filing

May 14, 1997.

Take notice that on May 5, 1997, Northern States Power Company (NSP) tendered its Amendment No. 2 in the above reference docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 27, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13119 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2740–000]

Pacific Gas and Electric Company; Notice of Filing

May 14, 1997.

Take notice that on April 28, 1997, Pacific Gas and Electric Company (PG&E) tendered for filing; 1) an agreement dated April 1, 1997, by and between PG&E and the San Francisco Bay Area Rapid Transit District (BART) entitled "Service Agreement for Firm Point-to-Point Transmission Service" (Service Agreement); and 2) a request for termination of this Service Agreement.

The Service Agreement was entered into for the purpose of firm point-to-point transmission service for 4.8 MW of power delivered to BART at PG&E's Bayshore Substation. The effective date of termination is either the requested date shown below or such other date the Commission deems appropriate for termination.

Service agreement date	Term	Requested effective date for termination
Apr. 1, 1997—Service Agreement No. _____ under FERC Electric Tariff, Original Volume No. 3.	Apr. 1, 1997 through Apr. 30, 1997	Apr. 30, 1997.

Copies of this filing have been served upon the California Public Utilities Commission and BART.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 27, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13121 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–507–000]

Panhandle Eastern Pipe Line Company; Notice of Application to Abandon

May 14, 1997.

Take notice that on May 5, 1997, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas, 77251–1642, filed pursuant to Section 7(b) of the Natural Gas Act, for authority to abandon by removal, six compressor units and related facilities located at Applicant's Adams Compressor Station, in Texas County,

Oklahoma, all as more fully described in the application on file with the Commission and open to public inspection.

Applicant proposes to abandon the six compressors at the Adams Compressor Station, because there has been a significant drop in gas well head pressures which the Compressors were designed to handle. Production rates from the gas reservoirs in the area upstream of the Adams Compressor Station have been declining and no additional production is expected. The compressor units to be abandoned total 3,532 horsepower. Applicant states that the remaining compressor units at the Adams station can provide compression requirements in the future.

Any person desiring to be heard or make any protest with reference to said application should on or before June 4, 1997, 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 or 385.211) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protesters parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulation Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required, or if the Commission on its own review of the matter finds that permission and approval of the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–13132 Filed 5–19–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5827–7]

Agency Information Collection Activities: Submission for OMB Review, Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Environmental Projection Agency/ Chemical Manufacturers Association Root Cause Pilot Analysis Project. The ICR describes the nature of the information collection, the expected burden and cost to collect the information, and the actual data collection instruments.

DATES: Comments must be submitted on or before June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 260–2740 and refer to EPA ICR No. 1792.01.

SUPPLEMENTARY INFORMATION:

Title: Environmental Protection Agency/Chemical Manufacturers Association Root Cause Analysis Pilot Project (Root Cause Project) (EPA ICR No. 1792.01.) The U.S. Environmental Protection Agency (EPA), in conjunction with the CMA, is conducting a root cause analysis pilot project to identify and analyze the underlying causes of noncompliance under closed Federal civil judicial and administrative cases. This is a new collection.

Abstract: The goals of the root cause project are: to improve compliance by developing compliance assistance tools and identifying regulatory reinvention opportunities to address the underlying causes of noncompliance; and to assess the relationship between environmental management systems (EMSs) (e.g., CMA's Responsible Care®) and facilities' environmental performance. EPA, CMA, and an ad-hoc CMA member committee developed the survey instrument for the root cause project. Entities potentially affected by this action are Chemical Manufacturers Association (CMA) member facilities that voluntarily agree to participate in this project by completing the survey instrument and commenting on the facility-specific matrix(es).

EPA and CMA developed the survey instrument to assist EPA understand the underlying causes of noncompliance and assess industry's compliance assistance needs. Sixty CMA member facilities will receive the survey and have the opportunity to respond voluntarily to the survey instrument questions. These 60 CMA member facilities were identified through EPA data and verified as CMA members by CMA. The criteria used to identify the CMA member facilities for participation in the project was whether they were a party to either a Federal civil judicial or administrative action that was commenced and closed between 1990–1995. EPA developed a facility-specific matrix for each closed civil action. The facility-specific matrix(es) will be sent with the survey to each identified facility. The matrix provides general information on the outcome of the Federal action and will help the facility respond to the survey questions. CMA member facilities will have the opportunity to review and comment on the data in their facility-specific matrix(es). The information collection seeks comment on the survey instrument and the matrix.

The respondents will be asked to: Identify the primary underlying cause(s) and contributing factor(s) of noncompliance identified by the Federal action(s) in the facility matrix(es); (2) describe the steps taken and lessons learned by the facilities to address the noncompliance; (3) provide information regarding the relationship that may exist between the facilities' environmental management system (EMS) and its environmental performance; and (4) recommend improvements to the facilities' and Agency's approaches to achieve regulatory compliance. In addition, each facility will have the opportunity to comment on the data supplied in their facility profile matrix(es). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displayes a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** notice required 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 8/9/96 (FR Doc. 96–20 367); No comments were received.

Burden Statement: It is estimated that approximately 60 facilities may voluntarily respond to the survey instrument and comment on the facility-specific matrix(es). Both the survey responses and the matrix(es) comments are a one-time request. EPA estimates that each participating facility may need to spend up to 32 hours to research compliance files and complete the survey. Therefore, a total of 1,920 facility hours may be expended to provide EPA and CMA with data for use in the pilot project. This burden hour estimate translates to a cost of $2,992 per facility and a total cost to industry of $179,520. The respondent costs were calculated based on $80 per hour for the first 12 hours and $100 per hour for the remaining 4 hours, plus 110 percent overhead. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes: the time needed to review instructions; develops, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information; and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collectin of information; search data sources; complete and review the collection of information; and tansmit or otherwise disclose the information.

Respondents/Affected Entities: CMA member facilities that volunteer.

Estimated Number of Respondents: 60.

Frequency of Response: 1.

Estimated Total Hour Burden: 1,920 hours.

Estimated Total Annualized Cost Burden: $179,520.

Send comments on the Agency's need for this informaiton, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1792.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503

Dated: May 15, 1997.

Rick Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–13206 Filed 5–19–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Approved by Office of Management and Budget

May 13, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96–511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Not withstanding any other provisions of law, 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. Questions concerning the OMB control numbers and expiration dates should be directed to Judy Boley, Federal Communications Commission, (202) 418–0214.

Federal Communications Commission

OMB Control No.: 3060–0771.

Expiration Date: 08/31/1997.

Title: Procedure for Obtaining a Special Temporary Authorization in the Experimental Radio Service (Section 5.56).

Form No.: N/A.

Estimated Annual Burden: 500 annual hours; average 1 hour per respondent; 500 respondents.

Description: The Commission may issue a special temporary authority (STA) under part 5 of the rules in cases where a need is shown for operation of an authorized station for a limited time only, in manner other than that specified in the existing authorization, but not in conflict with the Commission's rules. A request for STA may be filed as an informal application.

OMB Control No.: 3060–0473.

Expiration Date: 12/31/99.

Title: Section 74.1251 Technical and equipment modification.

Form No.: N/A.

Estimated Annual Burden: 50 annual hours; 0.25 hours per respondent; 200 respondents.

Description: Section 74.1251 requires licensees to certify compliance with technical requirements upon replacement of transmitter that can be accomplished without FCC approval. Additionally, § 74.1251 requires licensees to notify the FCC in writing of changes in the primary FM station being retransmitted. Data used by station owners to provide necessary information regarding modified equipment and by FCC to keep records up-to-date.

OMB Control No.: 3060–0678.

Expiration Date: 4/30/2000.

Title: Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures.

Form: FCC 312.

Estimated Annual Burden: 2,600 total annual hours; average 2 hours per respondent; 1,300 respondents.

Description: Rules and regulations have been adopted, eliminating redundances and unnecessary requirements, streamlining and clarifying the licensing and application procedures for satellite space and earth stations. A consolidated FCC Form 312 has been developed to incorporate all changes and clarifications and will be used by respondents seeking authority under part 25 of the Commission's rules.

OMB Control No.: 3060–0506.

Expiration Date: 4/30/2000.

Title: Application for FM Broadcast Station License.

Form: 302–FM.

Estimated Annual Burden: 439 total annual hours; average 0.167–3.25 hours per respondent; 750 respondents.

Description: FCC 302–FM is required to be filed by licensees and permittees of FM broadcast stations to request and obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of these stations. Data is used by FCC staff to confirm that the station has been built to terms specified in the outstanding construction permit. Data is extracted from FCC Form 302–FM for inclusion the in the license to operate the station.

OMB Control No.: 3060–0161.

Expiration Date: 12/31/99.

Title: AM Directional Antenna Field Strength Measurement—Section 73.61.

Form: N/A.

Estimated Annual Burden: 36,082 total annual hours; average 4–50 hours per respondent; 1,877 respondents.

Description: Section 73.61 request that AM stations with directional antennas make field strength measurements and partial proofs of performance. Data is used by licensees to ensure adequate interference protection is maintained and that antenna is operating properly and by FCC staff in field inspections/ investigations.

OMB Control No.: 3060–0214.
Expiration Date: 12/31/99.
Title: Local Public Inspection File of Commercial Stations—Section 73.3526.
Form No.: N/A.
Estimated Annual Burden: 1,282,100 annual hour; average 104 hours per radio recordkeeper, 130 hours per TV recordkeeper, 1 hour per election statement to 150 cable systems per station and 5 minutes per TV station for revising station identification and publicizing the existence and location of the children's public inspection file; 10,250 commercial radio licensee recordkeepers, 1,200 Commercial TV licensee recordkeepers, 1,200 commercial TV stations making must carry/transmission consent elections, and 1,200 commercial TV stations publicizing the existence and location of children's public inspection file.
Description: Section 73.3526 requires each licensee/permittee of a commercial AM, FM or TV broadcast station to maintain a file for public inspection.

OMB Control No.: 3060–0286.
Expiration Date: 5/31/1998.
Title: Notice of Discontinuance, Reduction or Impairment of Service Involving a Distress Watch—Section 30.302.
Form No.: N/A.
Estimated Annual Burden: 160 annual hours; average 1 hour per respondent; 160 respondents.
Description: Section 80.302 is necessary to ensure the U.S. Coast Guard is informed when a coast station discontinues, reduces, or impairs a listening watch required to be maintained on a marine safety frequency.

OMB Control No.: 3060–0390.
Expiration Date: 12/31/99.
Title: Broadcast Station Annual Employment Report.
Form: 395–B.
Estimated Annual Burden: 12,320 total annual hours; average .88 hours per respondent; 14,000 responses.
Description: FCC 395–B is a data collection devise used to assess and enforce the Commission's EEO requirements. It is filed by all AM, FM, TV, international and low power TV broadcast licensees/permittees. The data is used by FCC staff to monitor a licensee's/permitees efforts to comply with the broadcast EEO rule.

OMB Control No.: 3060–0075.
Expiration Date: 12/31/99.
Title: Application for Transfer of Control of a Corporate Licensee or Permittee or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station.
Form: N/A.
Estimated Annual Burden: 655 total annual hours; average hour 1–10 per respondent; 655 respondents.
Description: FCC 345 is required when applying for authority for assignment of license or permit, or consent to transfer of control for a low power television station, or FM or TV translator station. The data is used by FCC staff to determine if applicant meets basic statutory requirements to operate station.

OMB Control No.: 3060–0208.
Expiration Date: 1/31/2000.
Title: Chief Operators—Section 73.1870.
Form: N/A.
Estimated Annual Burden: 355,858 total annual hours; average 26.166 hours per respondent; 13,600 respondents.
Description: Section 73.1870 requires licensees of radio and television stations to designate chief operators and post designation with operator license. Section 73.1870 also requires chief operator to review station records weekly. Data used by chief operator, and FCC staff in investigations, to assure that station is operating in accordance with station authorization.

OMB Control No.: 3060–0107.
Expiration Date: 1/31/2000.
Title: Private Radio Application for Renewal Reinstatement and/or Notification of Change to License Information.
Form No.: 405–A.
Estimated Annual Burden: annual hour; average hours per respondent; ?? respondents.
Description: This form is filed applicants in the Private Land Mobile and General Mobile Radio Services for renewal or cancellation of an existing authorization, and for reinstatement in the Private Land Mobile Radio Service. The data is used to determine eligibility for renewal/reinstatement and to issue a license.

OMB Control No.: 3060–0178.
Expiration Date: 12/31/1999.
Title: Operating Power and Mode Tolerances—Section 73.1560.
Form No.: N/A.
Estimated Annual Burden: 273 annual hours; 1 hour per respondent; 273 respondents.
Description: Section 73.1560 requires licensees of AM, FM or TV broadcast stations to file notifications with FCC when operating at reduced power for 10 consecutive days, upon restoration to normal operations, and to file written request for additional time when operation cannot be restored within 30 days. The data used by FCC staff to maintain complete and accurate technical data about station operations.

OMB Control No.: 3060–0176.
Expiration Date: 12/31/1999.
Title: Section 73.11510 Experimental Authorizations.
Form: N/A.
Estimated Annual Burden: 8 total annual hours; average 15 minutes per respondent; 30 respondents.
Description: Section 73.1510 requires licensees of AM, FM or TV broadcast stations to file informal application with FCC when requesting an experimental authorization describing nature and purpose of experimentation. Data used by FCC staff to ensure that experimentation will not cause interference to another station.

OMB Control No.: 3060–0119.
Expiration Date: 12/31/1999.
Title: 90.145 Special Temporary Authority.
Form: N/A.
Estimated Annual Burden: 3,000 total annual hours; average .5 hours per respondent; 6,000 respondents.
Description: Applicants may receive special temporary authority to use radio facilities in the Private Land Mobile Services by submitting in writing, or by telephone or telegraph in emergency situations, the information request by Section 90.145.

OMB Control No.: 3060–0465.
Expiration Date: 12/31/1999.
Title: Section 74.985 Signal Booster Station.
Form: N/A.
Estimated Annual Burden: 15 total annual hours; average .5–1 hour per respondent; 20 respondents.
Description: § 74.985 requires signal booster stations to obtain written consent of station to be retransmitted and requires low power signal booster station to submit certification statement within 48 hours of installation of booster station demonstrating compliance with Section 74.985(g). Data used by FCC staff to ensure consent to retransmit signal has been obtained and to ensure that low power booster would not cause interference.

OMB Control No.: 3060–0215.
Expiration Date: 12/31/1999.
Title: Local Public Inspection File of Noncommercial Educational Stations—Section 73.3527.
Form No.: N/A.
Estimated Annual Burden: 225,487 annual hour; average 104 hours per respondent; 2,168 respondents.
Description: Section 73.3527 requires each noncommercial educational broadcast station licensee/permittee to maintain a file for public inspection. The contents of the file vary according to type of service and status. The data are used by the public and FCC staff in

field investigations to evaluate information about the station's performance.

OMB Control No.: 3060–0181.
Expiration Date: 12/31/1999.
Title: Section 73.1615 Operation during modification of facilities.
Form: N/A.
Estimated Annual Burden: 61 total annual hours; average 10 minutes–1 hour per respondent; 113 respondents.
Description: Section 73.1615 requires licensees of AM, FM or TV stations to file request for authority with FCC when discontinuing operation or operating with temporary facilities. The data are used by FCC staff to maintain technical records and to ensure that interference is not caused to other facilities.

OMB Control No.: 3060–0461.
Expiration Date: 12/31/1999.
Title: Policies Governing the Assignment of Frequencies—Section 90.173.
Form: N/A.
Estimated Annual Burden: 900 total annual hours; average 4.5 hours per respondent; 200 respondents.
Description: The rule allows that individuals who provide the Commission with information that a current licensee is violating certain rules to be granted a license preference for any channels recovered as a result of that information. The information will be used to determine if licensee is in violation.

OMB Control No.: 3060–0212.
Expiration Date: 12/31/1999.
Title: Equal Employment Opportunity Program—Section 73.2080.
Form: N/A.
Estimated Annual Burden: 795,080 total annual hours; average 52 hours per respondent; 15,290 respondents.
Description: Section 73.2080 requires that each broadcast station shall establish, maintain and carry out a program to assure equal employment opportunity in every aspect of a station's policy and practice. Data is used by a broadcast licensee in preparation of its broadcast EEO Program Report (FCC Form 396) submitted with its application for renewal of license and its Broadcast Annual Employment Report (FCC Form 395–B) submitted once a year.

OMB Control No.: 3060–0053.
Expiration Date: 11/30/1999.
Title: Application for Consent to Transfer of Control of Corporation Holding Station License.
Form: FCC Form 703.
Estimated Annual Burden: 454 total annual hours; average 36 minutes per respondent; 757 respondents.
Description: Filing of FCC 703 is required by the FCC whenever it is proposed to change, as by transfer of stock ownership, the control of a station. The data is used by the Commission to determine continued eligibility for licensees.

OMB Control No.: 3060–0055.
Expiration Date: 4/30/2000.
Title: Application for Cable Television Relay Service Station Authorization.
Form: FCC Form 327.
Estimated Annual Burden: 3,081 total annual hours; average 3.166 hours per respondent; 3,081 respondents.
Description: FCC Form 327 is used by cable television system owners or operators and MMDS operators to apply for cable television relay service station authorizations. Applicant information is used by Commission staff to determine whether applicants meet basic statutory requirements and are qualified to become or continue as Commission licensees.

OMB Control No.: 3060–0602.
Expiration Date: 4/30/2000.
Title: Section 76.917 Notification of Certification Withdrawal.
Form: N/A.
Estimated Annual Burden: 13 total annual hours; average .5 hour per respondent; 25 respondents.
Description: Section 76.917 of the Commission's rules requires a local franchise authority ("LFA") that has been certified to regulate basic service tier (BST) cable rates to notify the Commission if it no longer intends to regulate BST cable rates. The notifications are used by the Commission to readily determine the extent of BST rate regulation of cable systems and to be aware of circumstance where certified LFAs no longer intend to regulate BST cable rates.

OMB Control No.: 3060–0766.
Expiration Date: 9/30/1997.
Title: Digital Television Licenses.
Form: FCC 301, FCC 340.
Estimated Annual Burden: 165 total annual hours; average 1–5 hours per respondent; 40 respondents. The Commission assumes most licensees will hire an outside consultant to prepare the FCC 301/340 applications. The estimated time for completion of the forms is 40 per application.
Description: To receive authorization for commencement of operation, an initial DTV licensee must file FCC 301/340 for a construction permit. This application must be filed anytime after receiving the initial DTV license but must be filed before the mid-point in a particular applicant's required construction period. The Commission has developed a new section V–D for DTV engineers which will be added to the FCC form 301/340. The Commission will consider these applications as minor changes in facilities. Applicants will not have to supply full legal or financial qualification information.

OMB Control No.: 3060–0343.
Expiration Date: 5/31/1997.
Title: Assignment of Authorization.
Form: FCC 1046.
Estimated Annual Burden: 498 total annual hours; average 5 minutes per respondent; 6,000 respondents.
Description: This form is filed by applicants in Private Land Mobile, Fixed Microwave Services, Coast and Ground Radio Services for assignment of an existing authorization. The data is used to determine eligibility for an assignment and to issue a radio station license.

OMB Control No.: 3060–0343.
Expiration Date: 5/31/1997.
Title: Section 25.140—Qualifications for Satellite Space Station Licensees.
Form: N/A.
Estimated Annual Burden: 2,500 total annual hours; average 10 hours per respondent; 25 respondents.
Description: Section 25.140 information enables the Commission to determine whether applicants for space station authorizations are financially, technically and legally qualified to construct, launch and operate their proposed systems and to determine whether the need for expansion or additional satellites is justified.

OMB Control No.: 3060–0106.
Expiration Date: 9/30/1997.
Title: Reports of Overseas Telecommunications Traffic Sections 43.61.
Form: N/A.
Estimated Annual Burden: 7,554 total annual hours; average 8–40 hours per respondent; 248 respondents.
Description: The telecommunications traffic data report is an annual reporting requirement imposed on common carriers engaged in the provision of overseas telecommunications services. The reported data is useful for international planning, facility authorization, monitoring emerging developments in communications services analyzing market structures, tracking the balance of payments in international communications services, and market analysis purposes. The reported data enables the Commission to fulfill its regulatory responsibilities.

OMB Control No.: 3060–0108.
Expiration Date: 8/31/1997.
Title: Emergency Alert System Activation Report.
Form: FCC 201.
Estimated Annual Burden: 43 total annual hours; average 2 minutes per respondent; 1,300 respondents.

Description: Information is needed to maintain accurate records and documentation of broadcast stations and cable systems compliance with FCC rules, locate Emergency Alert System (EAS) equipment failures, and enhance and encourage participation in the National, state and local EAS.

OMB Control No.: 3060–0004.
Expiration Date: 3/31/2000.
Title: Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation.
Form: N/A.
Estimated Annual Burden: 40,301 total annual hours; average 15 minutes—1 hour per respondent; 122,441 respondents.
Description: The information collection is a result of responsibility placed on the FCC by the National Environmental Policy (NEPA) of 1969. To meet these responsibilities the Commission adopted RF exposure guidelines for evaluation potential environmental effects of RF radiation from FCC-regulated facilities. The guidelines reflect more recent scientific studies of the biological effects of RF radiation. The use of these guidelines will help ensure that FCC-regulated facilities comply with the latest standards.

OMB Control No.: 3060–0035.
Expiration Date: 4/30/2000.
Title: Applicant Application for Renewal of Auxiliary Broadcast License.
Form: FCC 313–R.
Estimated Annual Burden: 25 total annual hours; average 30 minutes per respondent; 50 respondents.
Description: FCC 313–R is used by licensees of remote pickup, television auxiliary, aural studio link and relay stations that are not broadcast licensees (e.g cable operators, network entities, motion picture and television producers) to renew their auxiliary broadcast licensees. Data is used by FCC staff to determine eligibility for a renewal and to issue a license.

OMB Control No.: 3060–0582.
Expiration Date: 3/31/2000.
Title: Section 76.1302 Adjudicatory Proceedings.
Form: N/A.
Estimated Annual Burden: 348 total annual hours; average 1–20 hours per respondent; 36 respondents.
Description: Section 76.1302 provides that any aggrieved video programming vendor intending to file a carriage agreement complaint with the Commission must first notify the potential defendant multichannel video programming distributor that it intends to file such a complaint. If the parties cannot resolve the dispute the Complainant may file the complaint with the Commission.

OMB Control No.: 3060–0764.
Expiration Date: 9/30/1997.
Title: Regulation of International Accounting Rates.
Form: N/A.
Estimated Annual Burden: 480 total annual hours; average 16 hours per respondent; 30 respondents.
Description: CC Docket 90–337 implemented rules that created a framework that permits flexibility for U.S. carriers engaged in international telecommunications to negotiate lower accounting rates. The flexible approach will be available where appropriate market and regulatory conditions exist. The Commission adopted a new rule section 64, 1002, for U.S. carriers that wish to enter into alternative settlement arrangements outside the scope of §§ 43.41(e)(1), 63.14, and 64.1001. In such cases, U.S. Carriers will seek Commission approval for an alternative by filing a Petition for Declaratory Ruling.

OMB Control No.: 3060–0397.
Expiration Date: 4/30/2000.
Title: Special Temporary Authority—Section 15.7(a).
Form: N/A.
Estimated Annual Burden: 12 total annual hours; average 2 hours per respondent; 6 respondents.
Description: In exceptional situations, a special temporary authorization to operate a radio frequency device not conforming to the subject rules will be issued. An applicant must show that the proposed operation is in the public interest, but cannot be feasibly conducted under the applicable rules.

Federal Communications Commission
William F. Caton,
Acting Secretary.
[FR Doc. 97–13088 Filed 5–19–97; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2196]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

May 15, 1997.

Petitions for reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor. ITS, Inc., (202) 857–3800. Oppositions to this petitions must be filed June 4, 1997. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board. (CC Docket No. 80–286).

Number of Petitions Filed: 1.

Subject: Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220–222 Mhz Band by the Private Land Mobile Radio Service. (PR Docket No. 89–552); Implementation of Sections 3(n) and 332 of the Communications Act; Regulatory Treatment of Mobile Services; (GN Docket No. 93–252); Implementation of Section 309(j) of the Communications Act—Competitive Bidding (PP Docket No. 93–253).

Number of Petitions Filed: 11.

Subject: Amendment of 47 CFR Sec. 1.1200 *et seq.* concerning *Ex Parte* Presentations in Commission Proceedings. (GC Docket No. 95–21).

Number of Petitions Filed: 2.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Littlfield, Wolfforth and Tahoka, Texas) (MM Docket No. 95–83, RM–8634).

Number of Petitions Filed: 1.

Subject: Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Claremore and Chelsea, Oklahoma) (MM Docket No. 95–167, RM–8699).

Number of Petitions Filed: 1.

Subject: Implementation of the Telecommunications Act of 1996: Telemessaging, Electronic Publishing, and Alarm Monitoring Services. (CC Docket No. 96–152).

Number of Petitions Filed: 1.

Subject: Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Services. (GN Docket No. 96–228).

Number of Petitions Filed: 1.

Subject: Amendment of Parts 1, 2, 21 and 25 of the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services. (CC Docket No. 92–297); Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to-Point Microwave Radio Services Rules; Suite 12 Group Petition for Pioneer's Preference (PP–22).

Number of Petitions Filed: 3.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 97–13146 Filed 5–19–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1175–DR]

Minnesota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota (FEMA–1175–DR), dated April 8, 1997, and related determinations.

EFFECTIVE DATE: May 10, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3630.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as authorized by the President in a letter dated April 22, 1997, FEMA is extending the time period for Direct Federal assistance at 100 percent Federal funding for eligible emergency work approved by FEMA through May 17, 1997 for the State of Minnesota.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–13174 Filed 5–19–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1174–DR]

North Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota (FEMA–1174–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 5, 1997

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given, in a letter to James L. Witt, Director of the Federal Emergency Management Agency, dated May 2, 1997, the President amended the major disaster declaration to expand the incident type to include damage resulting from fires in the major disaster declaration of April 7, 1997, as follows:

I have determined that the damage in certain areas of the State of North Dakota, resulting from severe flooding, severe winter storms, heavy spring rain, rapid snowmelt, high winds, ice jams, and ground saturation due to high water tables beginning on February 28, 1997, and continuing, is of sufficient severity and magnitude to warrant expansion of the incident type to include damage resulting from fires in the major disaster declaration of April 7, 1997, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act").

All other conditions specified in the original declaration remain the same.

Please notify the Governor of the State of North Dakota and the Federal Coordinating Officer of this amendment to my major disaster declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Catherine H. Light,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–13175 Filed 5–19–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1174–DR]

North Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota (FEMA–1174–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 10, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3630.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as authorized by the President in a letter dated April 22, 1997, FEMA is extending the time period for Direct Federal assistance at 100 percent Federal funding for eligible emergency work approved by FEMA through May 17, 1997 for the State of North Dakota.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–13177 Filed 5–19–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1173–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota (FEMA–1173–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 10, 1997.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3630.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as authorized by the President in a letter dated April 22, 1997, FEMA is extending the time period for Direct Federal assistance at 100 percent Federal funding for eligible emergency work approved by FEMA through May 17, 1997 for the State of South Dakota.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–13178 Filed 5–19–97; 8:45 am]

BILLING CODE 6718–02–P

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. Once the notices have been accepted for processing, they will also 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 June 3, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. John William Crites, Petersburg, West Virginia; to acquire an additional 5.56 percent, for a total of 12.40 percent, of the voting shares of South Branch Valley Bancorp, Inc., Moorefield, West Virginia, and thereby indirectly acquire South Branch Valley National Bank of Moorefield, Moorefield, West Virginia.

Board of Governors of the Federal Reserve System, May 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13155 Filed 5–19–97; 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. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 13, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. First Citizens BancShares, Inc., Raleigh, North Carolina; to acquire 100 percent of the voting shares of First Savings Financial Corp., Reidsville, North Carolina, and thereby indirectly acquire First Savings Bank of Rockingham County, Inc., SSB, Reidsville, North Carolina.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Eagle Investment Company, Inc., Glenwood, Minnesota; to become a bank holding company by acquiring 98.25 percent of the voting shares of Eagle Bank, Glenwood, Minnesota.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Gold Banc Corporation, Inc., Prairie Village, Kansas; to acquire 100 percent of the voting shares of Peoples Bancshares, Inc., Clay Center, Kansas, and thereby indirectly acquire Peoples National Bank of Clay Center, Clay Center, Kansas.

Board of Governors of the Federal Reserve System, May 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13156 Filed 5–19–97; 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. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 4, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Guaranty Bancshares Corporation, Kansas City, Kansas; to acquire 100 percent of the voting shares of Bank of Coffey, Coffey, Missouri.

Board of Governors of the Federal Reserve System, May 15, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13194 Filed 5–19–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than June 3, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Commercial Guaranty Bancshares, Inc., Shawnee Mission, Kansas; to engage *de novo* through its subsidiary, CGB Capital Corporation, Shawnee Mission, Kansas, in acting as an agent for the private placement of securities, pursuant to § 225.28(b)(7)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 14, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13157 Filed 5–19–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Tuesday, May 27, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13381 Filed 5–16–97; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 962–3064]

Aldi, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 21, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker, Federal Trade Commission, Chicago Regional Office, 55 East Monroe St., Suite 1437, Chicago, IL 60603. (312) 353–8156.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for May 13, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's rules of practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Aldi, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns notification requirements under the Fair Credit Reporting Act, 15 U.S.C. 1681. That statute requires, among other things, that employment applicants, who are denied employment, either in whole or in part, because of information in consumer reports obtained from consumer reporting agencies, be provided with the name and address of the agency making the consumer report. The failure to provide the notice required by the statute lessens consumers' access to information that may have led to the denial of employment. Proper notice assists consumers in discovering inaccurate or obsolete information in consumer reports that the consumers can subsequently dispute and correct. The use of consumer reports to assist in evaluating employment applications has become increasingly popular in recent years and, consequently, the significance of this notification requirement has heightened.

The Commission's complaint alleges that Aldi, Inc., has denied employment applications based, in whole or in part, on information contained in consumer reports, failed to advise such job applicants that the denial was based in whole or in part on information contained in a consumer report, and failed to supply such applicants with the name and address of the agency making the report, as required by section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. 1681m(a). The complaint also alleges that the failure to advise these job applicants constitutes a violation of section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. 1681m(a). The complaint further alleges that, pursuant to section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. 1681s, a violation of section 5(a)(1) constitutes an unfair or deceptive act or practice in violation of section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. 45(a)(1).

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the consent agreement requires Aldi, Inc., to cease and desist from failing to provide the notice

required by section 615(a) to employment applicants whose applications are denied in whole or in part because of information in a credit report. Part I provides that Aldi may not be held liable for the failure to provide such notices if it demonstrates by a preponderance of evidence that it had instituted reasonable procedures to comply with section 615(a).

Part I also requires Aldi to provide the notice required by section 615(a) to all employment applicants, at their last known addresses, who were denied employment because of information in a credit report between January 1, 1994, and the date that the Order is issued, within 90 days after service of the order.

Paragraph II requires Aldi to maintain documents demonstrating its 615(a) compliance for a period of five years from the issuance date of the order and to make the documents available upon request to the FTC for inspection and copying. Paragraph III requires Aldi to deliver copies of the Order, at least once per year for a period of five years from the date of issuance, to all persons responsible for its compliance. Paragraph IV requires Aldi to notify the Commission within 30 days of changes in corporate structure for the duration of the order. Paragraph V provides for the filing of a compliance report with the Commission within 60 days of the issuance date of the order. Finally, Paragraph VI contains a sunset provision, which terminates the order 20 years after issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–13149 Filed 5–19–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 962–3086]

Bruno's, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 21, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Tom Carter, Federal Trade Commission, Dallas Regional Office, 1999 Bryan Street, Suite 2150, Dallas, TX 75201. (214) 979–9350.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for May 13, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Bruno's, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns notification requirements under the Fair Credit Reporting Act, 15 U.S.C. § 1681. The statute requires, among other things, that employment applicants, who are denied employment, either in whole or in part, because of information in consumer reports obtained from consumer reporting agencies, be provided with the name and address of the agency making the consumer report. The failure to provide the notice required by the statute lessens consumers' access to information that may have led to the denial of employment. Proper notice assists consumers in discovering inaccurate or obsolete information in consumer reports that the consumers can subsequently dispute and correct. The use of consumer reports to assist in evaluating employment applications has become increasingly popular in recent years and, consequently, the significance of this notification requirement has heightened.

The Commission's complaint alleges that Bruno's Inc., has denied employment applications based, in whole or in part, on information contained in consumer reports, failed to advise such job applicants that the denial was based in whole or in part on information contained in a consumer report, and failed to supply such applicants with the name and address of the agency making the report, as required by Section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681m(a). The compliant also alleges that the failure to advise these job applicants constitutes a violation of Section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681m(a). The complaint further alleges that, pursuant to Section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681s, a violation of Section 615(a) constitutes an unfair or deceptive act or practice in violation of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1).

The proposed consent order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the consent agreement requires Bruno's, Inc., to cease and desist failing to provide the notice required by Section 615(a) to employment applicants whose applications were denied in whole or in part because of information in a credit report. Part I provides that Bruno's, Inc., may not be held liable for the failure to provide such notices if it demonstrates by a preponderance of evidence that it

had instituted reasonable procedures to comply with Section 615(a).

Paragraph II requires Bruno's to maintain documents demonstrating its 615(a) compliance for a period of five years from the issuance date of the order and to make the documents available upon request to the FTC for inspection and copying. Paragraph III requires Bruno's to deliver copies of the Order, at least once per year for a period of five years from the date of issuance, to all persons responsible for its compliance. Paragraph IV requires Bruno's to notify the Commission within 30 days of changes in corporate structure for the duration of the order. Paragraph V provides for the filing of a compliance report with the Commission within 60 days of the issuance date of the order. Finally, Paragraph IV contains a sunset provision, which terminates the order 20 years after issuance.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 97–13150 Filed 5–19–97; 8:45 am]

BILLING CODE 6750–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Friday, May 30, 1997, from 9 a.m. to 4 p.m. in the Elmer Staats Briefing Room, room 7C13 of the General Accounting Office building, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss the following issues: (1) The appropriate classification of certain Coast Guard cutters and aircraft, (2) options for social insurance programs, (3) accounting for internal use software, and (4) technical corrections and amendments proposed for PP&E accounting.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Wendy Comes, Executive Director, 441 G St., NW, Room 3B18, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. No. 92–463, sec. 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. sec. 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: May 14, 1997.

Wendy M. Comes,

Executive Director.

[FR Doc. 97–13144 Filed 5–19–97; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 558

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

Background

The Interagency Committee on Medical Records (ICMR) are aware of numerous activities using computer-generated medical forms, many of which are not mirror images of the genuine paper Standard Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set data standards and require that activities developing computer-generated versions adhere to the required data elements but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those data elements which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements.

Summary

With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following data elements must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 558

Item	Placement*
Text:	
Title:	
Emergency Care and Treatment (Patient)	Top of form 1. .
Emergency Care and Treatment (Doctor)	Top of form 2.
Form ID: Standard Form 558 (Rev. 9–96)	Bottom right corner of form.
I have received and understand these instructions	Right above patient's signature.
Data Entry Fields:	

ELECTRONIC ELEMENTS FOR SF 558—Continued

Item	Placement*
These fields belong on the patient copy of the SF 558:	
Log Number	
Treatment Facility	
Records Maintained At	
Patient's Home Address or Duty Station (Must include Street Address, City, State, and ZIP Code)	
Arrival Date	
Arrival Time	
Transportation to Facility	
Sex	
Age	
Home Phone (Include area code and phone number)	
Duty/Local Phone (Include area code and phone number)	
Military Status—PRP Yes	DOD forms only.
Military Status—PRP No	DOD forms only.
Military Status—PRP NA	DOD forms only.
Military Status—Flying Status Yes	DOD forms only.
Military Status—Flying Status No	DOD forms only.
Military Status—Flying Status NA	DOD forms only.
Medical History Obtained From:	
Third Party Insurance—Additional Yes	
Third Party Insurance—Additional No	
Third Party Insurance—DD 2568 in chart Yes	DOD forms only.
Third Party Insurance—DD 2568 in chart No	DOD forms only.
Name of Insurance Company	
Current Medications	
Allergies	
Injury or Occupational Illness—Is this an injury Yes	
Injury or Occupational Illness—Is this an injury No	
Injury or Occupational Illness—When (date)	
Injury or Occupational Illness—Where	
Injury or Occupational Illness—How	
Injury or Occupational Illness—Injury/Safety forms Yes	
Injury or Occupational Illness—Injury/Safety forms No	
Emergency Room Visit—Date last visit	
Emergency Room Visit—24 hour return Yes	
Emergency Room Visit—24 hour return No	
Tetanus—Dated last shot	
Tetanus—Completed initial series Yes	
Tetanus—Completed initial series No	
Chief complaint	
Category of Treatment—Emergent	
Category of Treatment—Urgent	
Category of Treatment—Non-Urgent	
Category of Treatment—Time	
Category of Treatment—Initials	
Vital Signs—Time (Allow for at least five entries)	
Vital Signs—BP (Allow for at least five entries)	
Vital Signs—Pulse (Allow for at least five entries)	
Vital Signs—Resp (Allow for at least five entries)	
Vital Signs—Temp (Allow for at least five entries)	
Lab Orders—CBC/DIFF	
Lab Orders—Urine C&S	
Lab Orders—Blood C&S X	
Lab Orders—ABG	
Lab Orders—UA MSCC/CATH	
Lab Orders—PT/PTT	
Lab Orders—BHCC/Urine/Blood/Quant	
Lab Orders—Chem	
Lab Orders—(5 blank fields)	
X-Ray Orders—CXR PA & LAT/Portable	
X-Ray Orders—Acute Abdomen	
X-Ray Orders—Sinus	
X-Ray Orders—Ankle R/L	
X-Ray Orders—C-Spine	
X-Ray Orders—LS Spine	
X-Ray Orders—Head CT	
X-Ray Orders—(Allow for at least 3 blank fields)	
Orders—Pulse OX	
Orders—Monitor	
Orders—ECG	
Orders—Time (Allow for at least 4 entries)	

ELECTRONIC ELEMENTS FOR SF 558—Continued

Item	Placement*
Orders—Orders (Allow for at least 4 entries)	
Orders—By (Allow for at least 4 entries)	
Orders—Completed By (Allow for at least 4 entries)	
Orders—Time (Allow for at least 4 entries)	
Orders—Patient's Response (Allow for at least 4 entries)	
Disposition—Home	
Disposition—Full Duty	
Disposition Quarters/Off Duty—24 Hrs.	
Disposition Quarters/Off Duty—48 Hrs.	
Disposition Quarters/Off Duty—78 Hrs.	
Modified Duty Until (Date)	
Return to Duty (Date)	
Patient/Discharge Instructions	
Condition Upon Release—Improved	
Condition Upon Release—Deteriorated	
Condition Upon Release—Unchanged	
Admit to Unit/Service (Date)	
Time of Release	
Referred To	
Referred When	
Patient's Signature	
Patient's Name (last, first, middle)	Bottom left corner of form.
Patient's ID No. or SSN	
Hospotal or medical facility	
These fields belong on the doctor's copy of the SF 558:	
Time Seen By Provider	
CBC—WBC	
CBC—H/H	
CBC—PLT	
SMAC	
PT	
APTT	
BHCG	
ETOH	
GLU	
ABG/Pulse OX—Sup 02	
ABG/Pulse OX—PH	
ABG/Pulse OX—PO2	
ABG/Pulse OX—PCO2	
ABG/Pulse OX—SAT	
ABG/Pulse OX—Other	
U/A—DIP	
U/A—Micro	
Radiology—check if ready by radiologist	
Results	
EKG Interpretation	
Provider History/Physical	
Consult With (Allow at least 5 entries)	
Time (Allow at least 5 entries)	
Action (Allow at least 5 entries)	
Diagnosis	
Resident/Medical Student Signature	
Resident/Medical Student Stamp	
Provider Signature	
Provider Stamp	
Codes	
Patient's Name (last, first, middle)	Bottom left corner of form.
Patient's ID No. or SSN	
Hospital or Medical Facility	

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Patricia Buss, MC, USN; (202) 762–3131.

Dated: May 13, 1997.

CDR Patricia Buss, MC, USN,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 97–13089 Filed 5–19–97; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR); Automation of Medical Standard Form 526

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

Background

The Interagency Committee on Medical Records (ICMR) are aware of numerous activities using computer-generated medical forms, many of which are not mirror images of the genuine paper Standard Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set data standards and require that activities developing computer-generated versions adhere to the required data elements but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly used and/or commonly computer-generated. We will identify those data elements which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements.

Summary

With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following data elements must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR SF 526

Item	Placement*
Text:	
Title Interstitial/Intercavitary Therapy	Top of form.
Form ID Standard Form 526 (Rev. 2–95)	Bottom right corner of form.
Data Entry Fields:	
Diagnosis	
Date (treatment beginning date and time)	
Isotope	
Total Quantity (MG/mCi)	
Applicator	
Total Time (Hrs.)	
Diagram	
Dose Information	
Signature of Physician	
Date (Physician's signature)	
Identification No.	
Organization	
Patient's Name (last, first, middle)	Bottom left corner of form.
Patient's ID No. or SSN	
Hospital or medical facility	
Register No.	
Ward No.	
Date (of treatment)	
Record of Treatments	

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Patricia Buss, MC, USN; (202) 762–3131.

Dated: May 13, 1997.

CDR, Patricia Buss, MC, USN,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 97–13091 Filed 5–19–97; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

Interagency Committee for Medical Records (ICMR)

Automation of Medical Optional Form 523B

AGENCY: General Services Administration.

ACTION: Guideline on automating medical standard forms.

Background

The Interagency Committee on Medical Records (ICMR) are aware of numerous activities using computer-generated medical forms, many of which are not mirror images of the genuine paper Standard Form. With GSA's approval the ICMR eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The committee proposes to set data standards and require that activities developing computer-generated versions adhere to the required data elements but not necessarily to the image. The ICMR plans to review medical Standard/Optional forms which are commonly

used and/or commonly computer-generated. We will identify those data elements which are required, those (if any) which are optional, and the required format (if necessary). Activities may not add data elements that would change the meaning of the form. This would require written approval from the ICMR. Using the process by which overprints are approved for paper Standard/Optional forms, activities may add other data elements to those required by the committee. With this decision, activities at the local or headquarters level should be able to develop electronic versions which meet the committee's requirements.

Summary

With GSA's approval, the Interagency Committee on Medical Records (ICMR) eliminated the requirement that every electronic version of a medical Standard/Optional form be reviewed and granted an exception. The following data elements must appear on the electronic version of the following form:

ELECTRONIC ELEMENTS FOR OF 523B

Item	Placement*
Text:	
Title Authorization For Tissue Donation	Top of form.
Form ID: Optional Form 523B (12–94)	Bottom right corner of form.
Data Entry Fields:	
Name of Hospital.	
Location of Hospital.	
Date of Authorization.	
Name of Deceased.	
Tissue Bank (Name of Hospital).	
Specify Tissue.	
Signature of Witness.	
Full Address of Witness.	
Signature of Person Authorized to Consent.	
Full Address of Person Authorized to Consent.	
Authority to Consent.	
Patient's Name (last, first, middle)	Bottom left corner of form.
Patient's ID No. or SSN.	
Hospital or medical facility.	
Register No..	
Ward No..	

*If no placement indicated, items can appear anywhere on the form.

FOR FURTHER INFORMATION CONTACT: CDR Patricia Buss, MC USN; (202) 762–3131.

Dated: May 13, 1997.

CDR Patricia Buss, MC, USN,

Chairperson, Interagency Committee on Medical Records.

[FR Doc. 97–13090 Filed 5–19–97; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–97–11]

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 Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. National Inventory of Clinical Laboratory Testing Services (NICLTS)—New—This is a new data collection. CDC proposes to gather data through the use of a mail/telephone-assisted survey of a statistical sample of waived and provider performance microscopy (PPM) certified laboratories. The use of a mail/telephone survey instrument will be a cost-effective approach for performing the inventory of clinical laboratory testing services by analytes, test systems, specimen types and test volume in laboratories with limited menus such as waived and PPM facilities.

The data collected in this study will provide the government, policy makers, practitioners and researchers with national estimates of analytes, test systems, and test volumes being performed in each of the ten defined regions in the United States in waived and PPM laboratories.

This baseline survey will be analyzed and used by CDC in: (1) responding to questions concerning the impact of both regulatory and non-regulatory changes in the delivery of clinical laboratory medicine to Congress, DHHS, and the public; (2) allowing the government to track changes in public access to clinical laboratory testing and to determine what and where tests are available; (3) predicting the impact of proposed regulatory changes on laboratory services, the government can respond to requests for information from a position of more complete knowledge and understanding than the partial information currently available; and (4) monitoring the changes in laboratory

testing as our health care delivery systems moves toward managed care. The cost to the respondents is $0.

Respondents	No. of respondents	No. of responses/respondent (in hrs.)	Total burden (in hrs.)
PPM Certified Laboratories	1,178	1	1
Total			1,178

Dated: May 14, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–13142 Filed 5–19–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96N–0402]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled, "Blood Establishment and Product Listing," has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the OMB approval number.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 13, 1997 (62 FR 11898), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). OMB has now approved the information collection and has assigned OMB control number 0910–0052. The approval expires on April 30, 2000. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: May 13, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–13152 Filed 5–19–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June, 1997.

Name: Advisory Commission on Childhood Vaccines (ACCV).

Date and Time: June 11, 1997; 9 a.m.—5 p.m.; June 12, 1997; 9 a.m.—12 noon.

Place: Parklawn Building, Conference Room G, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

The full Commission will meet on Wednesday, June 11 from 9 a.m. to 5 p.m. and Thursday, June 12 from 9 a.m. to 12 noon.

Agenda: Agenda items will include, but not be limited to: a report from the ACCV Subcommittee on Vaccine Safety, a review of section 314 activities and an update on new vaccines for licensure, and routine Program reports.

Public comment will be permitted before lunch and at the end of the Commission meeting on June 11, and before adjournment of the meeting on June 12. Oral presentations will be limited to 5 minutes per public speaker.

Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Melissa Palmer, Principal Staff Liaison, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–35, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–6593. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation Program will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign-up in Conference Room G on June 11–12. These persons will be allocated time as time permits.

Anyone requiring information regarding the Commission should contact Ms. Palmer.

Agenda Items are subject to change as priorities dictate.

Dated: May 14, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination, Health Resources and Services Administration.

[FR Doc. 97–13154 Filed 5–19–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (HRSA) as most recently amended at 60 FR 56605, November 6, 1995 and the Office of the Administrator as last amended (61 FR 65062–65 dated December 10, 1996). This notice is to revise the functional statement for the Office of the Administrator. We are also announcing several significant administrative actions: Three centers will operate from the Immediate Office of the Administrator: the Center for Managed Care, the Center for Quality, and the Center for Public Health Practice. In addition, to further strengthen certain important aspects of the Agency's activities, three senior advisors will report to the Administrator: Senior Advisor for International Health, Senior Advisor for Special Initiatives, and Senior Advisor for Women's Health. Although not part of the formal

organizational structure, these centers and advisors provide a flexible, interim mechanism for HRSA to focus significant projects and crosscutting efforts. Should we find that permanent organizational structures are necessary, we will establish such structures in future notices. Finally, we are changing the title of the officials who manage our four program bureaus from "Bureau Director" to "Associate Administrator" to reflect their status as a critical part of the corporate HRSA organization.

Section RA–00, Mission

The Health Resources and Services Administration (HRSA) directs national health programs which improve the health of the Nation by assuring quality health care to underserved, vulnerable and special-need populations and by promoting appropriate health professions workforce capacity and practice, particularly in primary care and public health.

1. Make the following changes:

Section RA–10 Organization

The Office of the Administrator is headed by the Administrator, Health Resources and Services Administration (OA) who reports directly to the Secretary. The OA includes the following components:

(1) Office of the Administrator (R);
(2) Office of Equal Opportunity and Civil Rights (RA2);
(3) Office of Planning, Evaluation and Legislation (RA5);
(4) Office of Communications (RA6);
(5) Office of Minority Health (RA9); and
(6) AIDS Program Office (RAA)

A. Amend the functional statement for the Immediate Office of the Administrator.

Immediate Office of the Administrator (RA)

Leads and directs programs and activities of the Agency and advises the Office of the Secretary of Health and Human Services on policy matters concerning them; (2) provides consultation and assistance to senior Agency officials and others on clinical and health professional issues; (3) serves as the Agency's focal point on efforts to strengthen the practice of public health as it pertains to the HRSA mission; (4) establishes and maintains communications with health organizations in the public and private sectors to support the mission of HRSA; (5) coordinates the Agency's international health activities; and (6) manages the Agency's women's health activities.

Office of Equal Opportunity and Civil Rights (RA2)

Directs, coordinates, develops, and administers the Agency's equal opportunity, and civil rights activities. Specifically: (1) Provides advice, counsel, and recommendations to Agency personnel, including the field offices on equal opportunity and civil rights and represents HRSA in all EEO areas; (2) administers affirmative action programs designed to ensure equality of opportunity in employment; (3) manages the civil service complaints system and prepares final Agency decisions; (4) manages the complaints system for Commissioned Corps personnel under provisions of Public Health Service Personnel Instruction 6 and issues proposed dispositions; (5) develops and directs implementation of the requirements of Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and the Americans With Disabilities Act, as they apply to recipients of HRSA funds; (6) provides technical assistance and guidance to the Agency on developing education and training programs regarding equal opportunity and civil rights; (7) promotes the awarding of contracts under Section 8(a) of the Small Business Act which pertains to minorities and women; (8) approves settlement agreements and attorney fees; and (9) applies all applicable laws, guidelines, rules and regulations in accordance with those of the Office of Equal Employment Opportunity and Civil Rights at the Department.

Office of Planning, Evaluation and Legislation (RA5)

Serves as the Administrator's primary staff element and principal source of advice on program planning, program evaluation, and legislative affairs; (2) develops the long-range program plan for the Agency; (3) develops the Agency's strategic plan encompassing its long-range goals, objectives and priorities; (4) directs all activities within the Agency which compare the costs of the Agency's programs with their benefits; (5) develops and implements a comprehensive evaluation program; (6) conducts policy analyses and develops policy positions in programmatic areas for HRSA; (7) directs the legislative affairs of the Agency, including the development of legislative proposals and a legislative program; (8) develops and coordinates the Agency's health services research plan; (9) directs performance measurement activities, including technical assistance and standards development and assessment; (10) coordinates the program data activities across the Agency, including the design and management of program tracking and surveillance; and (11) directs and coordinates disease prevention and health promotion activities across the Agency.

Office of Communications (RA6)

Provides leadership and general policy and program direction for, and conducts and coordinates communications and public affairs activities of the Agency; (2) serves as focal point for coordination of Agency communications activities with those of other health agencies within the Department of Health and Human Services and with field, State, local, voluntary and professional organizations; (3) develops and implements national communications initiatives to inform and educate the public, health care professionals, policy makers and the media; (4) researches, writes and prepares speeches and audiovisual presentations for the Administrator; (5) provides communication and public affairs expertise and staff advice and support to the Administrator in program and policy formulations and execution consistent with policy direction established by the Assistant Secretary for Public Affairs; (6) develops and implements policies and procedures related to external media relations and internal employee communications including those for the development, review, processing, quality control, and dissemination of Agency communications materials, including exhibits and those disseminated electronically; (7) serves as Communications and Public Affairs Officer for the Agency including establishment and maintenance of productive relationships with communications media; and (8) coordinates the implementation of the Freedom of Information Act for the Agency.

Office of Minority Health (RA9)

Serves as the principal advisor and coordinator to the agency for special needs of minority and disadvantaged populations, including advice on committee membership; (2) establishes short-term and long-range objectives for health activities addressing minority and disadvantaged populations; (3) participates in the organization and the planning of specific activities to meet minority health needs and collaborates with the Agency budget officials to assure an appropriate share of funds is devoted to minority health programs; (4) consults with public and private sector

agencies and organizations to assure minority health issues are addressed; (5) participates in the focus of activities and objectives in assuring equity in access to resources and health careers for minorities and the disadvantaged; (6) establishes and manages an agencywide data collection system for minority health activities and initiatives including White House initiatives, Historically Black Colleges and Universities, Educational Excellence for Hispanic Americans, and Departmental initiatives; (7) reviews inter/intra-Agency agreements related to racial/ethnic minority and disadvantaged populations; (8) participates in the formulation of HRSA's goals, policies, legislative proposals, priorities, and strategies, as they affect professional organizations and institutions of higher education (medical, public health, etc.) involved in or concerned with the delivery of health services to minorities and disadvantaged populations; and (9) links HRSA minority and disadvantaged program efforts to potential partners at the Federal, State and local levels and provides agencywide expertise on the development of culturally appropriate programs and materials.

AIDS Program Office (RAA)

Coordinates all AIDS-related activities within the Agency; (2) advises the Administrator on policy, clinical, and educational issues pertaining to the administration of HRSA's AIDS program; (3) keeps the Administrator informed of any difficulties arising within or outside HRSA that might adversely affect the Agency's ability to carry out its AIDS responsibilities; (4) coordinates the formulation of an overall strategy and policy for the HRSA AIDS programs; (5) working with the Office of Planning, Evaluation and Legislation, coordinates the preparation of HRSA's AIDS-related programmatic, budgetary and legislative proposals; (6) monitors and analyzes AIDS-related policy and legislative developments for their impact on HRSA's AIDS activities; (7) reviews AIDS-related program activities to determine their consistency with established policies; (8) coordinates HRSA's comments on AIDS-related reports, position papers, legislative proposals including requests from other agencies; (9) represents the Agency and the Department at AIDS-related meetings, conferences, task forces etc.; (10) plans and carries out special AIDS-related assignments for the Administrator.

2. Abolish the Office of Public Health Affairs (RA8), and incorporate its functions into the Immediate Office of the Administrator (RA).

3. Amend the functional statement for the Office of Management and Program Support; abolish the Office of Policy and Information Coordination (RA3) and reestablish it as the Division of Policy, Review and Coordination (RS7) by inserting its functional statement after the Office of Information Resources Management (RS6) in the Office of Management and Program Support.

Office of Management and Program Support (RS)

Provides agencywide leadership, program direction, and coordination to all phases of management; (2) provides management expertise and staff advice and support to the Administrator in program and policy formulation and execution; (3) plans, directs, and coordinates the Agency's activities in the areas of administrative management, financial management, human resources management, debt management, information resources management, grants and contracts management, procurement, real and personal property accountability and management, and administrative services; (4) directs and coordinates the development of policy and regulations; (5) oversees the development of annual operating objectives and coordinates HRSA work planning and appraisals; (6) serves as the Agency's focal point for field programs and activities except those field functions of the Division of Federal Occupational Health; (7) administers the Agency's Executive Secretariat and Committee Management functions; (8) coordinates the Department's tort claims panel and associated activities; and (9) administers the Agency's internal controls and integrity activities.

Division of Policy Review and Coordination (RS7)

Advises the Administrator and other key Agency officials on policy issues and assists in the identification and resolution of policy issues and problems; (2) establishes and maintains review and tracking mechanisms and systems that provide agencywide coordination and clearance of policies, regulations and guidelines; (3) contributes to the analysis, development and implementation of agencywide programs and policies through coordination with relevant Agency program components and other related sources; (4) plans, organizes and directs the Agency's Executive Secretariat with primary responsibility for preparation and management of written policy and other routine communications to and from the Administrator; (5) coordinates the preparation of proposed rules and regulations relating to Agency programs and coordinates Agency review and comment on other Department regulations that may affect the Agency's programs; and (6) oversees and coordinates the committee management system of the Agency.

4. Amend the Office of Field Coordination by establishing the HRSA Field structure.

Office of Field Coordination (RS5)

Serves as the Agency's focal point for Field programs and activities. Specifically: (1) oversees and manages HRSA activities in the field; (2) advises the Administrator on appropriate resource allocation for field activities; (3) at the direction of the Administrator, assists in the implementation and evaluation of HRSA programs in the field through coordination of activities, and assessing the effectiveness of programs to identify opportunities for improving policies and service delivery systems; (4) develops and implements activities in the field designed to improve customer service and relationships; (5) at the direction of the Administrator, develops and coordinates the field implementation of special program initiatives which involve multiple HRSA field components and/or multiple HRSA programs; (6) serves as field liaison to the Administrator, Associate Administrators, State and local health officials as well as private and professional organizations; (7) acts as liaison to provide administrative and financial support services to HRSA field components; and (8) exercises line management authority as delegated.

5. Under Part R, Health Resources and Services Administration, establish a new chapter HRSA Field Offices RSD, to read as follows:

Section RSD–00 Mission—The HRSA Field Offices support HRSA's mission by providing direct support to HRSA's program operations and carrying out crosscutting priorities and activities.

Section RSD–10 Organization. The Health Resources and Services Administration Field Offices consist of:

- HRSA Field Offices (RSDI—RSDX).

The ten HRSA Field Offices will be organizationally configured in 5 clusters.

Section RSD–20 Functions. The Field Offices carry out the following responsibilities: administer HRSA field health programs and activities to assure a coordinated field effort in support of national health policies and State and local needs within the region; (2) assess regional health requirements, assuring integration of HRSA health programs, and addressing crosscutting program issues and initiatives to achieve

program goals; (3) provide a HRSA focal point for responding to the needs of State and local governments, community agencies, and others involved in the planning or provision of general health; (4) support intergovernmental activities and respond to health issues of State and local concerns; (5) administer health activities and programs to provide for prevention of health problems; and (6) assure access to and quality of general health services.

Section R–30 Delegations of Authority. All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof, have been continued in effect in them or their successors pending further redelegation.

This reorganization is effective upon date of signature.

Dated: May 15, 1997.

Claude Earl Fox,

Administrator.

[FR Doc. 97–13153 Filed 5–19–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of a Meeting of the National Advisory Dental Research Council

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on June 10–11, 1997. The meeting of the full Council will be open to the public on June 11 from 8:30 a.m. to approximately 2:30 p.m., Conference Room 6, Sixth Floor, Building 31, National Institutes of Health, Bethesda, Maryland, for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on June 10, 1:00 p.m. until recess, for the review, discussion and evaluation of individual grant applications. These applications and information concerning individuals associated with the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal applications and reports, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Dushanka V. Kleinman, Executive Secretary, National Advisory Dental Research Council, and Deputy Director, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, Maryland 20892, (telephone (301) 496–9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: May 14, 1997.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 97–13213 Filed 5–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meeting of the National Institute of Dental Research Special Grants Review Committee

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Dental Research Special Grants Review Committee.

Date: June 12–13, 1997.

Time: 8:30 a.m. to Adjournment.

Place: Gaithersburg Hilton Hotel, 620 Perry Parkway, Gaithersburg, Maryland 20814.

Contact Person: Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, Natcher Building, Room 4AN–38E, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To review and evaluate grant applications and/or contract proposals.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Dental Research Institute; National Institutes of Health, HHS)

Dated: May 14, 1997.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 97–13212 Filed 5–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Meeting of Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Dental Research, on June 5–6, 1997, in Building 30, Trendley Dean Conference Room, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on June 5 for the Craniofacial and Skeletal Diseases Branch and the Molecular Structural Biology Unit presentations and from 8:30 a.m. to 10:30 a.m. on June 6 for a tour of the facilities and poster presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public from 5:00 p.m. until recess on June 5 and from 10:30 a.m. until adjournment on June 6 for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute of Dental Research (NIDR), including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Brent Jaquet, Director, Office of Planning, Evaluation, and Communications, NIDR, NIH, Building 31, Room 2C34, Bethesda, Maryland 20892 (telephone: 301–496–6705; e-mail: JaquetB@OD31.nidr.nih.gov) will provide a summary of the meeting, roster of committee members and substantive program information. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary listed above in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: May 14, 1997.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 97–13214 Filed 5–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Warren Grant Magnuson Clinical Center; Notice of Meeting of the Executive Committee of the Board of Governors of the Warren Grant Magnuson Clinical Center

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Executive Committee of the Board of Governors of the Warren Grant Magnuson Clinical Center, May 28, 1997. The Executive Committee will meet on May 28 from 8:30 a.m. to approximately 12:30 p.m. in the Medical Board Room (2C116) of the Clinical Center (Building 10) 9000 Rockville Pike, Bethesda, Maryland.

The meeting will be entirely open to the public and will discuss financial updates, the Clinical Center Strategic Plan feedback and prioritization, and agenda preparation for the next Board meeting. Attendance by the public will be limited to space available.

FOR FURTHER INFORMATION CONTACT: Ms. Maggi Stakem, Office of the Director, Warren Grant Magnuson Clinical Center, Building 10, Room 2C146, Bethesda, Maryland 20892, (301) 496–4114.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Stakem in advance of the meeting.

This notice is being published less than fifteen days prior to this meeting due to scheduling conflicts.

Dated: May 14, 1997.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 97–13211 Filed 5–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment and Finding of No Significant Impact, and Receipt of an Application for an Incidental Take Permit for the Regional Habitat Conservation Plan for the Red-Cockaded Woodpecker on Private Land in the East Texas Pineywoods

SUMMARY: The Texas Parks and Wildlife Department (TPWD) and the Texas Forest Service (TFS) (applicants) have applied for an incidental take permit from the U.S. Fish and Wildlife Service (Service) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The requested permit would authorize the applicants to enter into Safe Harbor Cooperative Agreements, authorizing future take; and Isolated Group Cooperative Agreements authorizing take (subject to fulfilling mitigative requirements) of isolated groups of the endangered red-cockaded woodpecker (*Picoides borealis*). Such take would be incidental to lawful land-use activities, such as timbering or residential development, on private and public land (excluding State and Federal land) in the Pineywoods region of east Texas. The permit would only authorize incidental take on specific lands enrolled in this program for which a respective Cooperative Agreement has been signed.

The geographic scope of the Texas red-cockaded woodpecker Habitat Conservation Plan (HCP) encompasses the southeastern portion of the Pineywoods Ecoregion of Texas.

It generally consists of a 21-county area that includes all or parts of Angelina, Cherokee, Grimes, Hardin, Harris, Houston, Jasper, Jefferson, Liberty, Montgomery, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler, and Walker counties. Lands potentially eligible for inclusion in the conservation plan include all privately-owned lands and public lands owned by cities, counties, and municipalities. Priority will be placed on securing Safe Harbor Cooperative Agreements with landowners where the land has the potential to benefit the red-cockaded woodpecker, particularly land with abandoned or inactive clusters, and that is near National Forests. Land in which red-cockaded woodpecker activity or potential habitat occurs outside of the specified geographic boundary may be considered for inclusion in the plan, although priority will be given to land within the specified geographic region. The duration of the permit is 99 years.

This notice advises the public that the Service has opened the comment period on the permit application and the environmental assessment (EA). The Service specifically requests comment on the appropriateness of the "No Surprises" assurances contained in this application. The permit application includes the Regional Habitat Conservation Plan for the Red-cockaded Woodpecker on Private Land in East Texas (Texas RCW HCP); an Isolated Group incidental take addendum; two separate cooperative agreements with the Service; and two separate cooperative agreements with landowners. The EA package includes a draft EA, and a draft Finding of No Significant Impact (FONSI), which concludes that issuing the incidental take permit is not a major Federal action significantly affecting the quality of the human environment, within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended.

This notice is provided pursuant to section 10(a) of the Act and NEPA regulations (40 CFR 1506.6). 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, a permit will be issued for the incidental take of the red-cockaded woodpecker subject to the provisions of the Texas RCW HCP. 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.

DATES: Written comments on the Texas RCW HCP, Isolated Group Addendum, EA, and draft FONSI must be received within 30 days of the date of publication.

ADDRESSES: Written data or comments should be submitted to Mr. Jeffrey A. Reid, Wildlife Biologist, U.S. Fish and Wildlife Service, 701 N. First Street, Lufkin, Texas 75901. Please refer to the Texas RCW HCP when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffrey A. Reid, U.S. Fish and Wildlife Service, at the address above or telephone (409) 639–8546. Individuals wishing copies of the documents should contact Mr. Reid. Please refer to Texas

RCW HCP when requesting copies of documents.

Documents are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above or to the Arlington Ecological Services Field Office, 711 Stadium Drive, Suite 252, Arlington, Texas 76011; (817) 885–7830.

SUPPLEMENTARY INFORMATION: The Texas RCW HCP is intended to establish Safe Harbor Cooperative Agreements that will result in the development of habitat for use by red-cockaded woodpeckers. These Safe Harbor Cooperative Agreements will provide incentives to develop red-cockaded woodpecker habitat by landowners who may otherwise have reservations about supporting endangered species on their lands.

The proposed programs complement the ongoing development of an overall conservation strategy for the red-cockaded woodpecker population in east Texas by representatives from the Service, U.S. Forest Service, TPWD, TFS, and private industry. Implementation should alleviate the concerns about endangered species conservation efforts by providing private landowners with relief from potential regulatory burdens while promoting voluntary enhancement and restoration of red-cockaded woodpecker nesting and foraging habitat. Red-cockaded woodpecker groups determined to be isolated will be used for augmentation/translocation in recovery, support, or other viable subpopulations.

The alternative of paying landowners for desired management practices could be accomplished without incidental taking occurring. However, such a program would be expensive and monies are not currently available.

Instead, the regulatory incentive proposed here, though it authorizes future incidental taking, is expected to attract sufficient interest among east Texas landowners to generate real benefits for the red-cockaded woodpecker. It is anticipated that 31 red-cockaded woodpecker groups will be included under the Safe Harbor Cooperative Agreements and as many as 10 red-cockaded woodpecker groups could be involved in Isolated Group Cooperative Agreements. Therefore, the extent of incidental take should not exceed 41 red-cockaded woodpecker groups during the life of this permit.

The Texas RCW HCP is cast 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 Service continues to critically evaluate any potential or real biological costs and conservation benefits of current red-cockaded woodpecker 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. This adaptive management concept allows the Texas RCW HCP to tier to the revised recovery plan upon issuance.

All interested agencies, organizations, and individuals are urged to provide comments on the permit application 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**.

Lynn B. Starnes,

Acting Regional Director, Region 2
Albuquerque, New Mexico

[FR Doc. 97–13141 Filed 5–19–97; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Land Acquisitions; Klamath Tribes of Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of final agency determination to take land into trust under 25 CFR part 151.

SUMMARY: The Assistant Secretary—Indian Affairs made a final agency determination to acquire approximately 42.31 acres, more or less, of land into trust for the Klamath Tribes of Oregon on May 14, 1997. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, MS–2070 MIB, 1849 C Street, NW, Washington, D.C. 20240, telephone (202) 219–4066.

SUPPLEMENTARY INFORMATION: This notice is published to comply with the requirement of 25 CFR 151.12(b) that notice be given to the public of the Secretary's decision to acquire land in trust at least 30 days prior to signatory acceptance of the land into trust. The purpose of the 30-day waiting period in 25 CFR 151.12(b) is to afford interested parties the opportunity to seek judicial review of final administrative decisions to take land in trust for Indian tribes and individual Indians before transfer of title to the property occurs. On May 14, 1997, the Assistant Secretary—Indian Affairs decided to accept approximately 42.31 acres, more or less, of land into trust for the Klamath Tribes of Oregon pursuant to Section 7 of the Klamath Indian Tribe Restoration Act, 25 U.S.C. 566d. The Secretary shall acquire title in the name of the United States in trust for the Klamath Tribes of Oregon for the following parcel of land described below no sooner than 30 days after the date of this notice.

A parcel of land containing 42.31 acres, more or less, situated in Government Lots 22, 23, 28 and 33, Section 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, being more particularly described as follows:

Beginning at a point, said point being the intersection of the North line of Government Lot 23, Section 16, Township 35, Range 7 East of the Willamette Meridian with the Easterly right of way line of Highway 97 and marked with a ⅝" pin, from which the ¼ corner common to Section 15 and 16, said Township and Range, bears North 89° 33′ 01" East 2203.55 feet; thence along the North line of said Government Lot 23 and the North line of Government Lot 22, said Township and Range, North 89° 33′ 01" East 1423.15 feet to the Westerly mean high water line of the Williamson River; thence along said mean high water line the following bearings and distances: South 2° 23′ 25" West 39.36 feet; thence South 17° 15′ 25" East 52.99 feet; thence South 28° 02′ 08" East 76.89 feet; thence South 39° 18′ 40" East 130.02 feet; thence South 57° 22′ 25" East 202.38 feet; thence South 16° 42′ 10" East 142.95 feet; thence South 27° 47′ 45" East 190.57 feet to a point on the South line of said Government Lot 22, said point being marked by a ⅝" pin; thence leaving said mean high water line along said South line of Government Lot 22 North 90° 00′ 00" West 951.85 feet to the Northeast corner of Government Lot 28, said Township and Range, said corner being marked by a ½" pin; thence along the East line of said Government Lot 28 South 0° 08′ 48" East 659.79 feet to the

Southeast corner of said Government Lot 28, said corner being marked by a ½" pin; thence along the South line of said Government Lot 28 South 89° 49' 56" West 454.20 feet to a ½" pin; thence leaving said South line South 0° 10' 04" East 40.64 feet to a ¾" iron pipe; thence South 61° 56' 56" West 629.30 feet to a point on said Easterly right of way line of Highway 97; thence along said Easterly right of way line of Highway 97; thence along said Easterly right of way line along the arc of a spiral curve to the right, the chord of which bears North 0° 53' 40" West 119.80 feet, to a ⅝" pin; thence continuing along said right of way line the following bearings and distances: South 86° 21' 30" East 20.00 feet to a ⅝" iron pin; thence North 3° 47' 20" East 800.69 feet to a ⅝" iron pin; thence North 88° 44' 24" West 20.00 feet to a ⅝" pin; thence North 3° 47' 54" East 743.27 feet to the point of beginning.

Title to the land described above will be conveyed subject to any valid existing easements for public roads, highways, public utilities, pipelines, and any other valid easements or rights-of-way now on record.

Dated: May 14, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–13202 Filed 5–19–97; 8:45 am]

BILLING CODE 4310–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

ACTION: Notice of amendment to approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through her delegated authority, has approved Amendment III to the Tribal-State Compact for Regulation of Class III Gaming Between The Klamath Tribes and the State of Oregon, which was executed on December 19, 1996.

DATES: This action is effective May 20, 1997.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: May 14, 1997.

Ada E. Deer,

Assistant Secretary, Indian Affairs.

[FR Doc. 97–13201 Filed 5–19–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[CA–920–06–1330–00]

Notice of Intent

AGENCIES: U.S. Department of the Interior, Bureau of Land Management, Alturas Resource Area; and U.S. Department of Agriculture, Forest Service, Modoc National Forest.

ACTION: Notice of Intent to prepare an Environmental Impact Statement for a Plan of Operation (POO) for Development and Production; and for a POO for Utilization and Disposal for a proposed geothermal development project, including: a power plant, geothermal production and injection wellfield, ancillary facilities, and transmission line on the Modoc National Forest in Siskiyou and Modoc Counties, California. The proposed project may require amending the Modoc National Forest Land and Resource Management Plan if the proposed action is approved.

SUMMARY: Notice is given that the Bureau of Land Management (BLM), U.S. Department of Agriculture, Forest Service (USFS); U.S. Department of Energy, Bonneville Power Administration (BPA); and the Siskiyou County Air Pollution Control District (APCD) will jointly prepare an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for a proposed 48 megawatt (MW)(gross) geothermal electric power plant with associated facilities and operations, and an approximately 21-mile, 230-kilovolt (kV), transmission line. This proposed action (known as the Telephone Flat Geothermal Development Project) would be located on the Modoc National Forest in northeastern California. BPA will participate in the EIS/EIR process as a cooperating agency to analyze potential effects.

Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA), and 42 U.S.C. 4321 *et seq.*, the BLM, USFS, BPA, and Siskiyou County APCD will be directing a third-party contractor in the preparation of the EIS/EIR on the impacts of the proposed action. Comments are being requested to help identify significant issues or concerns related to the proposed action, determine the scope of issues, and identify and refine alternatives to the proposed action.

DATES: Federal, state, and local agencies and the public are invited to participate in the scoping process for the EIS/EIR. Scoping meetings to encourage and facilitate public participation are proposed to be held in Yreka (June 9, 1997), Dorris (June 10, 1997), Tulelake (June 11, 1997), and Fall River Mills (June 12, 1997), California. Times and locations of the scoping meetings will be announced in the local news media.

ADDRESS FOR COMMENTS: In addition to the public scoping meetings, the BLM is inviting written comments and suggestions on the proposed action and the scope of the analysis. Written comments or requests to be added to the project mailing list should be submitted by June 30, 1997. Written comments should be addressed to Mr. Randall M. Sharp, USFS/BLM, Telephone Flat Geothermal Development Project EIS/EIR Project Leader, 800 W. 12th Street, Alturas, CA 96101.

FOR FURTHER INFORMATION CONTACT: Mr. Randall M. Sharp (916) 233–5811.

SUPPLEMENTARY INFORMATION: California Energy General Corporation submitted a POO for Development and Production and a POO for Utilization and Disposal to the BLM for constructing, operating, and maintaining a 48 MW (gross), dual flash, geothermal power plant, cooling tower, associated geothermal production and injections wells, well pads, roads, interconnected geothermal fluid pipelines, and accompanying segments of a 230 kV transmission line. This project, known as the Telephone Flat Geothermal Development Project, would be located within the Glass Mountain Unit of the Glass Mountain Known Geothermal Resource Area (KGRA) on the Modoc National Forest.

The proposed geothermal power plant, well pads, and fluid pipelines would be located within Federal geothermal leases CA 12370, CA 12371 and CA 12372, all within the Glass Mountain Unit of the Glass Mountain KGRA. The proposed power plant site would be located within Section 18 of the eight-section area known as the Telephone Flat project area, located in Sections 7, 8, 16, 17, and 18 Township 43 North, Range 4 East and Sections 1, 12, and 13 Township 43 North, Range 3 East, Mount Diablo Base and Meridian, Siskiyou County, California. The geothermal fluid supplies and wellhead reserves are projected to be

sufficient for the life of the project which is expected to be 50 years.

The proposed action would involve production of geothermal fluids (hot water, steam, and noncondensable gases) from an underground reservoir. These fluids would be produced from 10 to 20 two-phase production wells located on well pads selected from 22 alternative production well pad sites. The fluids would be separated at the surface in high and low pressure flash chambers located at each of the well pads. The high pressure and low pressure steam would be transported via parallel surface pipelines to the proposed power plant, where the steam would be directed to a turbine-generator unit. The unflashed spent geothermal fluid, cooling tower blowdown, and other fluids would be transported through surface pipelines to from three to five proposed injection wells for return of these fluids to the subsurface geothermal reservoir.

Each of the production and injection well pads would occupy from 3.7 to 5.5 acres, for a total alternative well pad area of about 81 to 121 acres. The power plant site would occupy approximately 18.5 acres. There would be a total of about four miles of surface pipeline corridor, and about one mile of new road associated with the power plant and wellfield. Approximately 16 miles of existing access roads in the project area would also be subject to potential reconstruction or surface improvement.

The proposed action would also include development of a transmission line that would extend from the proposed power plant via either a northern or southern route eastward for approximately 21 miles to an existing BPA transmission line. Alternatively, a short segment (about 1.5 miles) of transmission line from the power plant could tie into a proposed 230 kV transmission line extending from a separately proposed geothermal power plant project (i.e., the Fourmile Hill Geothermal Development Project) if that project is developed. The proposed transmission line would be constructed using H-frame wood poles. The proposed transmission line would be located entirely within the Modoc National Forest; however, transmission route alternatives may cross other Forests or parcels of private land. An approximately 100-foot wide right-of-way would exist along the constructed length of the transmission line. Access roads would be required along the length of the transmission line.

Alternatives thus far identified for evaluation in the EIS/EIR are: (1) The proposed action, (2) the no action alternative (the consequences of not developing the project), and (3) alternate transmission line route alternatives. The principal issues identified thus far for consideration in the EIS/EIR include Native American concerns; cumulative impacts considering existing, proposed, and potential other geothermal projects in the area; potential impacts on cultural resources; potential effects on wildlife; potential land use conflicts; potential visual impacts; and potential impacts on surface water and groundwater resources. The EIS/EIR will also address other issues such as geology, geothermal resources, vegetation, threatened or endangered species, air quality, noise, recreation, transportation, human health and safety, and socioeconomics as well as any issues raised during the scoping process.

If the proposed action or a selected alternative is approved, and if the proposed action or the selected alternative is inconsistent with the management direction provided in the Modoc National Forest Land and Resource Management Plan (LRMP), then the LRMP would be amended, as necessary, to reconcile any inconsistency.

Federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the BLM's decision for the proposed action are invited to participate in the scoping process. Input and comments received during this process will be considered during preparation of the EIS/EIR.

Dated: May 9, 1997.

Rich Burns,

Alturas Resource Area Manager, USDI Bureau of Land Management.

Dated: May 9, 1997.

Diane Henderson-Bramlette,

Modoc National Forest Supervisor, USDA Forest Service.

[FR Doc. 97–13086 Filed 5–19–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–07–1420–00]

Notice of Filing of Plat of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below will be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, on June 12, 1997.

New Mexico Principal Meridian, New Mexico:

Tps. 26–28 N., R. 19 W., accepted April 14, 1997, for Group 870 NM; Tps. 17–20 N., R. 21 W., accepted February 5, 1997, for Group 871 NM; T. 30 N., R. 17 W., and T. 29 N., R. 18 W., accepted February 26, 1997, for Group 922 NM; and T. 20 N., R. 8 W., accepted April 21, 1997, for Group 899 NM.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed.

The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: May 12, 1997.

John P. Bennett,

Chief Cadastral Surveyor for New Mexico.

[FR Doc. 97–13093 Filed 5–19–97; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 15, 1997.

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, Theresa M. O'Malley ((202) 219–5096 ext. 143). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720

between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer, Bureau of Labor Statistics, 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 for other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Bureau of Labor Statistics.

Title: Local Area Unemployment Statistics (LAUS) Reports.

OMB Number: 1220–0043.

Affected Public: State, Local or Tribal Government.

Form No.	Frequency	Number of respondents	Average time per respondent
LAUS 8	Annual	52	1 hour.
LAUS 15	Occasional	52	2 hours.
LAUS 16	Annual	52	1 hour.
LAUS 17	Occasional	52	30 minutes.

Total Burden Hours: 1,040.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: These reports provide essential technical information regarding the quality, accuracy, consistency, and conformance to the Bureau of Labor Statistics standards of the data and procedures used in LAUS estimation.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–13168 Filed 5–19–97; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–24; Exemption Application No. D–10253, et al.]

Grant of Individual Exemptions; The Retirement Plan for Salaried and Certain Hourly Employees of Keebler Company (the 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, D.C. 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.

The Retirement Plan for Salaried and Certain Hourly Employees of Keebler Company (the Plan) Located in Elmhurst, Illinois

[Prohibited Transaction Exemption 97–24; Exemption Application No. D–10253]

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 to (1) the leasing by the Plan of certain improved real property (the Property) to Keebler Company (the Employer), a party in interest with respect to the Plan, (2) the potential future purchase of the Property by the Employer, either pursuant to the Employer's right of first refusal, as stipulated in the lease, or pursuant to an offer by the Employer to purchase the Property, and (3) the "make whole agreement," and any payments thereunder, whereby the Employer will make the Plan whole, in the event that the Plan sells the Property to an unrelated party at a net loss.

This exemption is subject to the following conditions:

(1) The Plan is represented for all purposes with respect to the lease by a qualified, independent fiduciary;

(2) The terms and conditions of the lease are and continue to be at least as favorable to the Plan as those the Plan could obtain in a comparable arm's length transaction with an unrelated party;

(3) The rent paid to the Plan under the lease is and continues to be no less than the fair market rental value of the Property, as established by a qualified, independent appraiser;

(4) The rent is adjusted, at a minimum, every three years (upwards only), based upon an updated independent appraisal;

(5) The lease is a net lease, under which the Employer as the tenant is obligated for all operating expenses, including maintenance, taxes, insurance, and utilities;

(6) The independent fiduciary for the Plan represents that it has reviewed the terms and conditions of the lease on behalf of the Plan and believes the lease is in the best interests of and appropriate for the Plan;

(7) The independent fiduciary monitors and enforces compliance with the terms and conditions of the lease and of the exemption for the duration of the lease;

(8) The independent fiduciary expressly approves any improvements by the Employer over $100,000 to the Property and any renewal of the lease beyond the initial term;

(9) In the event that the Employer exercises its right of first refusal under the lease, or makes an offer to purchase the Property which is accepted by the Plan, the Employer purchases the Property from the Plan for an amount which is the greater of: (a) The original acquisition cost of the Property, plus the cost of any improvements, paid by the Plan, or (b) the fair market value of the Property as of the date of the sale, as established by a qualified, independent appraiser selected by the independent fiduciary;

(10) In the event that the Plan sells the Property to an unrelated party at a net loss (taking into account the cost of any improvements and all selling expenses paid by the Plan), the Employer makes the Plan whole, within 15 days after the date of such sale, by paying the Plan cash in an amount equal to the difference between: (a) The original acquisition cost of the Property, plus the cost of any improvements and all selling expenses, paid by the Plan, and (b) the amount of the sale proceeds received by the Plan; and

(11) At all times, the fair market value of the Property represents no more than 25 percent of the total assets of the Plan.

EFFECTIVE DATE: This exemption is effective as of April 15, 1996.

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 January 30, 1996 at 61 FR 68791.

Written Comments

The Department received a number of telephone inquiries and written comments from interested persons with respect to the proposed exemption, as well as one request for a public hearing. All of the comments, except for one comment from the applicant, were from participants and beneficiaries of the Plan. The Department responded directly to most of the commenters' concerns via a telephone hot line. Three commenters raised substantive issues, which are addressed below.

The applicant wished the record to include the following updated information regarding the Employer and the Plan. On June 4, 1996, Keebler Corporation, the parent company of the Employer, acquired Sunshine Biscuits, Inc. Effective as of December 31, 1996, the Sunshine Biscuits, Inc. Pension Plan (the Sunshine Plan) was merged into, and survived by, the Plan. Accordingly, in the first paragraph under the Summary of Facts and Representations in the notice of proposed exemption, the third and fourth sentences should be revised to read:

As of December 31, 1996, the Plan had approximately 14,300 participants and beneficiaries and total assets of $473,030,442.

Participants and beneficiaries of the former Sunshine Plan were included by the Employer among the class of "interested persons" who were provided with notice of the proposed exemption.

In addition, the applicant requested that the exemption as proposed should be modified to permit the potential future purchase of the Property by the Employer, *either* pursuant to the Employer's right of first refusal, as stipulated in the lease, *or pursuant to an offer by the Employer to purchase the Property.* The applicant argues, and the Department concurs, that it would be in the best interests of the Plan to be able to entertain an offer by the Employer to purchase the Property, under the terms and conditions of the exemption, in circumstances where the Plan did not have a ready offer to purchase the Property from an unrelated party. The operative language, including Condition 9, in this notice of exemption has been modified accordingly.

Another commenter raised a question concerning the procedures used in the selection of the independent appraiser who valued the Property. Chicago Trust, the Plan's independent fiduciary, which selected the appraiser, states that it did so in a prudent manner consistent with standard industry practices and that Messrs. Hall and Klein, M.A.I., of Binswanger Real Estate Appraisal, were chosen on the basis of their ability to render a fair and accurate valuation. The commenter also inquired into the reason for a retroactive effective date for the exemption. Chicago Trust states that the requested effective date of April 15, 1996 coincides with the date of the sale of the California Property, which is the date on which the Plan's leasing of the Property to the Employer became a prohibited transaction under the Act.

A third commenter objected to the Department's condition that the fair market value of the Property represent no more than 25% of the total assets of the Plan, on the grounds that a permitted level of 25% was excessive. Chicago Trust states that the 25% limitation is a standard established by the Department and refers to a *maximum* percentage that is in no way indicative of any requirement or intent on the part of the Employer to increase the Plan's real estate investments to 25% of Plan assets. As of December 31, 1996, the Property, which is the Plan's sole real estate investment, represented 66% of the Plan's assets.

Both the second and third commenters raised concerns regarding the future financial integrity of the Employer. Chicago Trust states that, as it has represented in the exemption application, it has examined the financial viability of the Employer and determined that the Employer has the ability to meet its contractual obligations under the lease. Moreover, Chicago Trust, states that, as consistent with its duties as a subtrustee of the Plan, it will continue to monitor these matters and will take any action necessary to enforce the Plan's rights under the lease and the exemption, including those provisions that pertain to the potential sale of the Property to the Employer and to the "make whole agreement."

After a careful consideration of the entire record, including the written comments and the applicant's responses thereto, the Department has determined that a public hearing in this instance is unwarranted and that the exemption should be granted, as modified.

FOR FURTHER INFORMATION CONTACT: Ms. Karin Weng of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Hughes Non-Bargaining Retirement Plan, Hughes Bargaining Retirement Plan, Hughes Subsidiary Retirement Plan (collectively, the Plans)

[Prohibited Transaction Exemption 97–25; Exemption Applications No. D–10295, D–10296 and D–10297]

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 to the leasing by the Plans of 10,106 square feet of office space (Suite 300) in a commercial office building which is owned by the Plans (the Building) to Sarofim Realty Advisors (SRA), a party in interest with respect to the Plans, for a period ending February 28, 2000 pursuant to the terms of a lease amendment (the Lease) provided the following conditions are satisfied: (1) An independent third party determined that the terms of the Lease represented not less than fair rental value as of the date of the Lease; (2) the terms of the Lease were reviewed and approved by a qualified independent fiduciary of the Plans who determined that the terms of the transaction were at least as favorable as the terms generally available to the Plans in arm's length transactions between unrelated parties and that SRA's improvements to Suite 300 were acceptable; (3) the qualified independent fiduciary concluded that the transaction was in the best interests of the Plans and the Plans' participants and beneficiaries; (4) on behalf of the Plans, the qualified independent fiduciary continues to monitor SRA's performance under the Lease; and (5) within sixty (60) days of [insert the date of publication in the **Federal Register** of the notice granting this exemption], SRA will file Form 5330 with the Internal Revenue Service and pay the excise taxes applicable under section 4975(a) of the Code that are due by reason of the prohibited Lease transaction during the period beginning March 1, 1995 and ending on the effective date of this exemption.

EFFECTIVE DATE: The effective date of this exemption is October 6, 1995.

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 January 14, 1997 at 62 FR 1921.

FOR FURTHER INFORMATION CONTACT: Wendy McColough of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

ADP Fluor Daniel, Incorporated Retirement Savings Plan (the Plan) Located in Tucson, Arizona

[Prohibited Transaction Exemption 97–26; Exemption Application No. D–10307]

Exemption

The restrictions of sections 406(a), 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 the sale by the Plan of two limited partnership interests (the Units) to ADP Fluor Daniel, Incorporated, a party in interest with respect to the Plan, providing the following conditions are satisfied:

(1) The sale is a one-time transaction for cash;

(2) The Plan pays no commissions or other expenses relating to the sale; and

(3) The purchase price is the greater of: (a) The fair market value of the Units as determined by a qualified, independent appraiser, or (b) the original acquisition and holding costs of the Units, plus attributable opportunity costs.

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 March 5, 1997 at 62 FR 10074.

FOR FURTHER INFORMATION CONTACT: Janet L. Schmidt of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Thompson, Siegel and Walmsley, Inc. (TS&W) Located in Richmond, Virginia

[Prohibited Transaction Exemption 97–27; Application No. D–10369]

Exemption

Section I—Transactions

The restrictions of sections 406(a) and 406(b) 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 (F) of the Code, shall not apply to the following transactions which occurred between April 16, 1996 and August 26, 1996, provided that the conditions set forth in Section II below are met:

(a) The acquisition by the Lewis-Gale Clinic, Inc. Profit Sharing Plan (the Plan) on April 16, 1996, of shares of the TS&W Equity Portfolio and Fixed Income Portfolio (the TS&W Portfolios), each a series of the UAM Funds, Inc. (the UAM Funds), an open-end investment company registered under the Investment Company Act of 1940 (the '40 Act), with respect to which TS&W serves as the investment adviser, through the in-kind transfer of assets of a separate account known as "Fund E" managed by TS&W as a fiduciary for the Plan;

(b) The subsequent sale of shares of the TS&W Portfolios by Fund E of the Plan on a cash basis;

(c) The acquisition and sale of shares of the DSI Money Market Portfolio (the DSI Portfolio), another series of the UAM Funds whose investment adviser—Dewey Square Investors Corporation (DSI)—is an affiliate of TS&W, by Fund E of the Plan on a cash basis;

(d) The receipt of fees from the TS&W Portfolios and the DSI Portfolio (collectively, the Portfolios) by TS&W and DSI, respectively, for acting as an investment adviser for the Portfolios; and

(e) The receipt of fees from the Portfolios by UAM Fund Services, Inc. (UAM Fund Services), an affiliate of TS&W and DSI, for performing secondary services for the Portfolios (e.g. administrative, fund accounting, dividend disbursing and transfer agent services).

Section II—Conditions

(a) The Plan's in-kind acquisition of shares of the TS&W Portfolios were one-time transactions; the initial cash acquisition of shares of the DSI Portfolio was a one-time transaction; and all subsequent cash acquisitions and sales of the Portfolios were the result of routine contributions and withdrawals by Plan participants and beneficiaries which were not subject to the control or influence of TS&W and the routine reallocation of assets of Fund E by TS&W pursuant to its responsibility to allocate assets of Fund E between the TS&W Portfolios, the TS&W International Portfolio and the DSI Portfolio.

(b) No sales commissions or other fees were paid by the Plan in connection with the acquisition of shares of the Portfolios and no redemption fees were paid by the Plan in connection with the sale by the Plan of such shares.

(c) A fiduciary of the Plan who was independent of and unrelated to TS&W (the Second Fiduciary) received advance notice of the transactions and full disclosure of information concerning the Portfolios which included, but was not limited to, the following:

(1) A current prospectus for each Portfolio;

(2) The fees for investment advisory and other services charged to and paid by the Plan (and by the Portfolios) to TS&W, DSI, UAM Fund Services or an

affiliate, including the nature and extent of any differential between the rates of the fees; and

(3) The reasons why TS&W considered investments in the Portfolios to be appropriate for the Plan.

(d) On the basis of the information described in paragraph (c) above, the Second Fiduciary approved the transactions, including the initial in-kind transfer of Fund E's assets to the TS&W Portfolios in exchange for shares of such Portfolios, prior to the transactions.

(e) The Second Fiduciary acknowledged in a writing dated August 26, 1996, that it received the information described in paragraph (c) above prior to the transactions and that it approved all of the subject transactions involving the Portfolios in advance. In addition, the Second Fiduciary adopted resolutions approving, ratifying and affirming the in-kind transfer of assets of Fund E to the TS&W Equity and Fixed Income Portfolios (in exchange for shares of such Portfolios) and the cash purchases of the shares of the DSI Portfolio as of April 15, 1996.

(f) With respect to the in-kind transfer of securities from Fund E to the TS&W Portfolios, the Plan received shares of each of the Portfolios which had a total net asset value equal to the value of all of the Plan's assets transferred in-kind to such Portfolio on the date of the transfer (i.e. April 16, 1996).

(g) The assets of the Plan transferred to the TS&W Portfolios were publicly-traded securities that were valued at their closing prices on the day they were accepted by the Portfolios (i.e. April 16, 1996), as determined by independent market sources in accordance with Rule 17a–7(b), issued by the Securities and Exchange Commission (SEC) under the '40 Act, by a party unrelated to TS&W and its affiliates.

(h) The terms of the transactions were no less favorable to the Plan than those which were obtainable in an arm's-length transaction with an unrelated party at the time of such transactions.

(i) TS&W sent by regular mail to the Second Fiduciary, not more than seven (7) days after the completion of the in-kind transfers to the TS&W Portfolios, a written confirmation which contained the following information: (1) Date of the transfers, (2) the number of shares of each Portfolio acquired by the Plan, (3) the price paid per share in each Portfolio, and (4) the total dollar amount involved in each transfer.

(j) Cash acquisitions and sales of shares of the Portfolios were reported to the Second Fiduciary in the normal course by means of regular transaction statements issued by the UAM Funds.

(k) The combined total of all fees received by TS&W and its affiliates for the provision of services to the Plan, and in connection with the provision of services to the Portfolios in which the Plan invested, was not in excess of "reasonable compensation" within the meaning of section 408(b)(2) of the Act.

(l) The Plan did not pay any plan-level investment management fees, investment advisory fees, or similar fees to TS&W or an affiliate with respect to any of the assets of such Plan which were invested in shares of any of the Portfolios. This condition does not preclude the payment of investment advisory fees or similar fees by the Portfolios to TS&W or an affiliate under the terms of an investment advisory agreement adopted in accordance with section 15 of the '40 Act.

(m) Within 10 days of the date that this exemption is granted, TS&W pays the Plan an amount equal to the additional net fees attributable to Fund E which TS&W and its affiliates received during the period covered by this exemption (i.e., April 17, 1996 until August 26, 1996) as a result of the investment of Fund E's assets in the Portfolios, plus a reasonable rate of interest on such amount which is at least equal to the rate of return such assets would have earned as assets held in Fund E during this period.

(n) Neither TS&W, DSI nor any affiliate thereof received fees payable pursuant to Rule 12b–1 under the '40 Act in connection with the transactions involving the Portfolios.

(o) All dealings between the Plan and the Portfolios were on a basis no less favorable to the Plan than dealings with other shareholders of the Portfolios.

(p) TS&W provides the Second Fiduciary of the Plan with the following:

(1) A copy of the proposed exemption and the final exemption when such documents become available;

(2) A copy of an updated prospectus of each Portfolio at least annually; and

(3) A report or statement (which may take the form of the most recent financial report, the current Statement of Additional Information, or some other written statement) which contains a description of all fees paid by the Portfolios to TS&W, DSI or any affiliate thereof, upon the request of the Second Fiduciary.

(q) All acquisitions and sales of shares of the Portfolios on and after August 26, 1996 are made in compliance with the terms and conditions of Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977).[1]

(r) TS&W and its affiliates maintain for a period of six years the records necessary to enable the persons described below in paragraph (s) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of TS&W or an affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than TS&W or an affiliate shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (s) below.

(s)(1) Except as provided in paragraph (b)(2) and notwithstanding any provisions of section 504 (a)(2) and (b) of the Act, the records referred to in paragraph (r) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Plan who has authority to acquire or dispose of shares of the Portfolios owned by the Plan, or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Plan or duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in paragraph (s)(1) (ii) and (iii) shall be authorized to examine trade secrets of TS&W or its affiliates, or commercial or financial information which is privileged or confidential.

Section III—Definitions

For purposes of this exemption:

(a) The term "TS&W" means Thompson, Siegel and Walmsley, Inc. and any affiliate thereof as defined below in paragraph (b) of this section.

(b) An "affiliate" of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee, relative, or partner in any such person; and

[1] PTE 77–4, in pertinent part, permits the purchase and sale by an employee benefit plan of shares of a registered, open-end investment company when a fiduciary with respect to the plan is also the investment adviser for the investment company, provided that certain conditions are met.

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "Portfolios" means the TS&W Equity and Fixed Income Portfolios and the DSI Money Market Portfolio, each a series of the UAM Funds, Inc., an open-end series investment company registered under the '40 Act, with respect to which TS&W and DSI, respectively serve as the investment adviser and for which UAM Fund Services provides certain "secondary services" as defined below in paragraph (h).

(e) The term "net asset value" means the amount for purposes of pricing all purchases and sales calculated by dividing the value of all securities, determined by a method as set forth in the Portfolio's prospectus and statement of additional information, and other assets belonging to the Portfolio, less the liabilities charged to each such Portfolio, by the number of outstanding shares.

(f) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(g) The term "Second Fiduciary" means a fiduciary acting for the Plan who is independent of and unrelated to TS&W and its affiliates.[2] For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to TS&W if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with TS&W or an affiliate;

(2) Such fiduciary, or any officer, director, partner, employee, or relative of the fiduciary is an officer, director, partner or employee of TS&W or an affiliate (or is a relative of such persons);

(3) Such fiduciary directly or indirectly receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption.

(h) The term "Secondary Service" means a service other than an investment management, investment advisory, or similar service, which was provided by TS&W's affiliate, UAM Fund Services, to the Portfolios.

EFFECTIVE DATE: This exemption is effective for the subject transactions, which occurred during the period from April 16, 1996 until August 26, 1996.

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 January 31, 1997, at 62 FR 4803.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Williams of the Department, telephone (202) 219–8194. (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 are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 15th day of May, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–13180 Filed 5–19–97; 8:45 am]

BILLING CODE 4510–29–P

[2] The Second Fiduciary which acted for the Plan was the Lewis-Gale Clinic, Inc. (the Plan Sponsor) and the individuals who acted for the Plan Sponsor in carrying out its responsibilities as the named fiduciary for the Plan.

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10340, et al.]

Proposed Exemptions; McLane Company, Inc. Profit Sharing Plan and Trust (the Plan)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this **Federal Register** Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications

for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). 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 requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

McLane Company, Inc. Profit Sharing Plan and Trust (the Plan) Located in Temple, Texas

[Application No. D–10340]

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of 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 B (55 FR 32836, 32847, August 10, 1990).[1] If the exemption is granted, 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(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the past sale (the Sale) by the Plan of two parcels of unimproved real property located in Temple, Texas and Goodyear, Arizona (the Properties) to McLane Company, Inc. (McLane), the Plan sponsor and a party in interest with respect to the Plan, provided that the following conditions are satisfied: (a) The Sale was a one time transaction for a lump sum cash payment; (b) the purchase prices were the fair market values of the Properties as of the date of the Sale; (c) the Properties have been appraised by qualified, independent real estate appraisers; (d) a qualified, independent fiduciary determined that the Sale was in the best interests of the Plan; and (e) the Plan paid no commissions or other expenses relating to the Sale.

EFFECTIVE DATE OF EXEMPTION: The effective date of this exemption is April 21, 1993.

Summary of Facts and Representations

1. The Applicant is Sarofim Realty Advisors (SRA). SRA was formally known as F.S. Realty Partners (FSRP) when it acted as an Investment Manager for the Plan during the subject transaction. SRA is headquartered in Dallas, Texas. As of December 31, 1995, SRA employed 18 full-time employees and had approximately $772 million in aggregate market value of employee benefit plan assets under management. SRA oversees the acquisition, development, leasing, management, financing and sale of select property types in select regions and major cities throughout the country for several pension plans and endowment funds.

The Applicant states that under the terms of the April 12, 1993 Investment Management Agreement (the IMA) between McLane, Mr. Lucian L. Morrison and FSRP, FSRP served as investment manager with exclusive investment discretion over the Properties. As the investment manager, FSRP was a fiduciary of the Plan. The Applicant represents that FSRP was not related to or otherwise affiliated with McLane.

2. The Applicant states that the Plan is a defined contribution plan whose total participants numbered 6,967 at the end of the 1993 Plan year. Additionally, the Applicant understands that at the time of consummation of the Sale, the approximate fair market value of the total assets of the Plan was $44,710,368 and that approximately 5.5% of the total assets for the 1993 Plan year were involved in the subject transaction.

At the time of the Sale, the company treasurer of McLane, Mr. Webster F. Stickney, Jr. (Mr. Stickney), was a Plan trustee. McLane, located in Temple, Texas, was the Plan sponsor and a party in interest with respect to the Plan. McLane is a wholesale grocery distribution company. Wal-Mart, Inc. owned one hundred percent of the issued and outstanding common stock of McLane at the time of the Sale.

3. The Properties were owned by the Plan at the time of the Sale. The Temple, Texas property consists of 86.245 acres of unimproved land bisected by McLane Parkway and located in the City of Temple, Bell County, Texas. Directly adjacent to the west and southwest are properties owned by McLane including the McLane corporate headquarters. Directly adjacent to the east are 212 acres purchased by McLane/Lone Star, Inc. for a 750,000 square foot warehouse used as a major distribution center. The Goodyear, Arizona property consists of 32.605 acres of unimproved land located on the south side of McDowell Road, 2,164 feet west of Litchfield Road in Goodyear, Arizona. McLane has a 125,828 square foot industrial distribution center adjacent to the east side of the Goodyear, Arizona property. This facility is the trucking hub that distributes grocery products to convenience stores and food establishments.

The Temple, Texas property was acquired by the Plan in two segments. The first piece constituted 84.711 acres and was purchased on December 29, 1986 from Mr. and Mrs. Calvin Emery for a total price of $621,400. The second segment, comprising 1.534 acres, was acquired from Mr. and Mrs. Ray Looney on November 30, 1987, for $22,652. Mr. Stokes represents that Mr. and Mrs. Emery and Mr. and Mrs. Looney were not parties in interest with respect to the Plan.

The Goodyear, Arizona property was also acquired at two different times. The Plan originally acquired a 51 percent interest in the property from Mr. Thomas Yamashita on June 20, 1984, for $793,800. It is represented that Mr. Yamashita was unrelated to the Plan. On May 16, 1988, McLane contributed to the Plan the remaining 49 percent interest in the property. It is represented that the property had been appraised by an independent appraiser on February 22, 1988 at $2,270,000. Also, it is represented that McLane's contribution of its interest in the property in 1988 was a purely discretionary contribution to the Plan and that McLane was under

[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978, 5 U.S.C. App. 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. In the discussion of the exemption, references to section 406 and 408 of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

no obligation to make any contribution to the Plan. The Properties have been held by the Plan since their respective purchase dates and have not been used by or leased to any person since their acquisition by the Plan.[2]

4. The Applicant represents that the motivation for the Plan's 1993 Sale of the Properties to McLane was solely to benefit Plan participants and beneficiaries and that Plan participants were unhappy both about the lack of income from the subject Properties and a concern about declining property values.

5. In order to fulfill what McLane believed to be the requirements of Prohibited Transaction Exemption 84–14 (49 FR 9494 March 13, 1984) (PTE 84–14)[3] with respect to the Sale, on or about February 15, 1993, McLane hired Lucian L. Morrison (Mr. Morrison) as an independent fiduciary for the purpose of appointing a qualified professional asset manager (QPAM) to sell the Properties owned by the Plan. On February 15, 1993, legal counsel to McLane informed the McLane treasurer that Mr. Morrison was willing to act on behalf of McLane in appointing a QPAM to have investment discretion with respect to the potential sale of the Properties to McLane. Legal counsel advised McLane that in order to comply with PTE 84–14, the Sale would proceed as follows: (1) Mr. Morrison would appoint a QPAM to represent the Plan with respect to the potential sale of the property to McLane; (2) the QPAM would hire its own appraiser and attorney to represent it in the transaction and, if appropriate, to negotiate the terms of the sale between the Plan and McLane; and (3) after the final terms of any transaction are negotiated, the sale would close in the same manner that any real estate sale would close, complete with deeds, title policies, etc.

On February 17, 1993, Mr. Morrison was formally hired as an independent fiduciary of the Plan to select and hire a QPAM to evaluate the proposed transactions and to negotiate the terms thereof and direct the trustees to enter into the Sale to McLane. Legal counsel to McLane gave Mr. Morrison the names of two prospective QPAMs from whom to solicit bids and told Mr. Morrison that McLane understood, under the PTE 84–14 requirements, that McLane could not dictate to Mr. Morrison or "taint the selection process", but McLane believed "it appropriate" to give Mr. Morrison the names of two firms McLane believed to be qualified to serve as a QPAM.

6. On February 26, 1993, the Limited Purpose Independent Fiduciary Agreement (Limited Agreement) was formally entered into between McLane and Mr. Morrison. The Limited Agreement provided that the purpose of the agreement was to facilitate the purchase of the Plan's Properties and that this purchase would be a prohibited transaction unless an exemption from the prohibited transaction rules of ERISA was utilized. The Limited Agreement further specified that the QPAM exemption was available for this purchase.[4]

Mr. Morrison accepted his appointment as a limited purpose independent fiduciary and agreed to act as provided for in the Limited Agreement, the Plan Document, and ERISA. Mr. Morrison solicited bids from the U.S. Trust of California and from FSRP, asking for their fee for serving as the QPAM to transact the purchase by McLane of the Plan's Properties.

7. On April 12, 1993, Mr. Morrison, McLane and FSRP entered into an "Investment Management Agreement". As independent fiduciary, Mr. Morrison appointed FSRP as an Investment Manager (IM) of the Plan. In Section 2 of the IMA, FSRP acknowledged that in acting as an IM under the IMA, it would be acting as a fiduciary to the Plan as defined in ERISA. Section 4 of the IMA provides that the IM shall: (1) Evaluate the proposed transaction and, if appropriate; (2) negotiate the terms of the Sale; and (3) direct the Plan to sell the Properties to McLane if, in FSRP's sole discretion, the sales price negotiated by FSRP and agreed to by McLane represents the fair market value of each parcel of real estate as determined by FSRP considering one or more appraisals obtained from qualified, independent appraisers. Section 6 of the IMA provides that the agreement shall terminate on the closing date of the proposed sales in the event that FSRP directs the Plan to enter into the sales of the Properties to McLane.

8. Plan records show that a full appraisal of the Temple, Texas property was completed for McLane on December 30, 1991 by Elbert Aldrich, Inc. (Aldrich), a real estate appraiser. Aldrich specified that only the Sales Comparison Approach was used in the valuation process of the appraisal due to the absence of any improvements on the subject property. Aldrich noted that the property was "essential for the continued development of the McLane Company, Inc. as the property is the nucleus of other properties held by McLane" and concluded the estimated fair market value of the property to be $763,000. An updated appraisal by

[2] The Department expresses no opinion herein on whether the acquisition and holding of the Temple, Texas property or the Goodyear, Arizona property by the Plan violated any of the provisions of Part 4 of Title I of the Act. The Department is providing no retroactive exemptive relief herein with respect to the acquisition and holding of the Temple, Texas property or the Goodyear, Arizona property by the Plan.

[3] PTE 84–14 provides relief from the restrictions of section 406(a) of ERISA for transactions between parties in interest and plans where a QPAM (as defined in the class exemption) is the decision maker and certain other conditions are met.

[4] In this regard, section I(a) of PTE 84–14 provides that:

(a) At the time of the transaction (as defined in section V(i)) the party in interest, or its affiliate (as defined in section V(c)), does not have, and during the immediately preceding one year has not exercised the authority to—

(1) Appoint or terminate the QPAM as a manager of any of the plan's assets, or

(2) Negotiate the terms of the management agreement with the QPAM (including renewals or modifications thereof) on behalf of the plan; * * *

Section I(c) of PTE 84–14 provides that:

(c) The terms of the transaction are negotiated on behalf of the investment fund by, or under the authority and general directions of the QPAM, and either the QPAM or (so long as the QPAM retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the QPAM, makes the decision on behalf of the investment fund to enter into the transaction, provided that the transaction is not part of an agreement, arrangement or understanding designed to benefit a party in interest; * * *

Section V(c)(3) of PTE 84–14 provides, in relevant part, that a named fiduciary (within the meaning of section 402(a)(2) of ERISA) of a plan and an employer any of whose employees are covered by the plan will also be considered affiliates with respect to each other for purposes of section I(a) if such an employer * * * has the authority * * * to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

Section 402(a) of ERISA provides that every employee benefit plan shall be established and maintained pursuant to a written instrument. This instrument must provide for one or more named fiduciaries who have the authority to control and manage the operation and administration of the plan. Under sections 402(c)(3) and 403(a) of ERISA, only a named fiduciary has the authority to appoint an investment manager, and such an appointment may be made only as specifically provided in the plan instrument.

The preamble to the proposed class exemption, 47 FR 56945 at 56947 (December 21, 1982), explains that the Department is prepared to grant broad exemptive relief only where an independent asset manager has, and in fact exercises, discretionary authority to cause an investment fund to enter into a transaction which is otherwise prohibited. Party in interest transactions that are negotiated by, e.g., an employer which sponsors a plan, and are then presented to a QPAM for approval would not qualify for the class exemption as proposed.

It is the view of the Department that the retention of a QPAM solely to approve a specific transaction presented for its consideration by a plan sponsor at the time of its engagement is inconsistent with the underlying intent of the exemption, i.e., the transfer of plan assets to an independent, discretionary manager free from the undue influence of the sponsor. Such a transaction also raises issues under section I(c) of the exemption which requires that the transaction not be a part of an agreement, arrangement or understanding designed to benefit a party in interest.

Aldrich, dated January 29, 1993, indicated that the Temple, Texas real estate maintained the same estimated fair market value of $763,000.

FSRP, as the IM, requested an additional appraisal of the Temple, Texas property from Crosson Dannis, Inc. (Crosson), an independent real estate appraiser. In an April 7, 1993 report to FSRP (the Crosson Report), Crosson used the Sales Comparison Approach and estimated the market value of the Temple, Texas property to be $300,000 as of March 29, 1993. The Crosson Report noted that the estimate was to assist FSRP in its asset management program and noted that the property "is not currently offered for sale nor are there any pending contracts of sale affecting it." The Crosson Report stated that the only construction activity in the area consisted of the Lone Star distribution center for McLane and that other than the demand by McLane for its distribution facility, there was no apparent demand by owner/users for land in this neighborhood. Further, that an analysis of comparable properties required that Crosson apply a negative conditions of sale adjustment to the surrounding McLane properties to account for the "buyer's motivation" since a premium was paid for these sites. The Crosson report noted that "[r]eal estate professionals in Temple indicate that * * * McLane * * * owns substantial acreage in this neighborhood, [and] as an investor, has, in the past, been willing to pay prices above market levels to acquire tracts in the neighborhood."

The Goodyear, Arizona property was evaluated for McLane by Appraisal Technology, Inc., a real estate appraiser, as of February 9, 1993. Appraisal Technology, Inc. noted that the Goodyear, Arizona property was adjacent to a McLane distribution facility. The appraisal adopted the Sales Comparison Approach to obtain a final estimated fair market value of $1,305,000 for the vacant property. FSRP requested a second appraisal of the Arizona property from Burke Hansen, Inc. (Burke), an independent real estate appraiser. The Burke appraisal specified that it was to be used by FSRP for portfolio management decisions. Using the Sales Comparison Approach, Burke estimated the market value of the Goodyear, Arizona property to be $390,000 as of March 30, 1993. However, the appraisal also provided an estimated use value of $1,300,000. The use value represents the value the property has for a specific use by a user with specific criteria, not necessarily representative of market value. Additionally, the report noted that the property was currently listed for sale at $2,000,000. The listing agent reported that there had been no offers.

9. On April 21, 1993, the Plan engaged in the Sale with McLane and received $2,463,000 from McLane for the Properties. The Plan received $763,000 for the Temple, Texas real estate and $1,700,000 for the Goodyear, Arizona real estate. Special Warranty Deeds conveying title to these parcels from the Plan to McLane were signed on May 12, 1993 by Webster F. Stickney, Jr., as Trustee of the Plan. The purchase agreement entered into by the Plan and McLane that agreed to the Sale for a total of $2,463,000 was also signed by Webster F. Stickney, Jr., as Trustee for the Plan and J.S. Harding, Jr., president of McLane, on May 12, 1993.

McLane represents that all parties involved in the Sale recognized that McLane was paying the Plan well in excess of the current fair market value for both properties and that this was clearly done to avoid having to advise Plan participants that they had incurred losses in their accounts due to a large decline in the real estate market at the time. McLane represents that both the Arizona and Texas properties appeared to be falling rapidly in value during 1992 and that the Sale prices for both properties reflected their estimated values in early 1992.

McLane also represents that, if McLane had treated the excess of the purchase price for the properties over their fair market values as a Plan contribution in 1993, the resulting allocations would not have violated the limitations of Internal Revenue Code section 415.

10. In summary, the Applicant represents that it now believes that the conditions of PTE 84–14 may not have been satisfied with respect to the Sale. As a result, it requests that the Department consider retroactive individual exemption relief under section 408(a) of ERISA. The Applicant represents that the requested exemption will satisfy the criteria of section 408(a) of the Act for the following reasons: (a) The Sale was a one time transaction for a lump sum cash payment; (b) the Plan received more than the fair market values of the Properties at the time of the transaction; (c) the fair market values of the Properties have been determined by independent, qualified real estate appraisers; (d) a qualified, independent fiduciary has determined that the Sale was in the best interests of the Plan; and (e) the Plan paid no commissions or other expenses relating to the Sale.

FOR FURTHER INFORMATION CONTACT: Wendy McColough of the Department, telephone (202) 219–8971. (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 of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the 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

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 14th day of May, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–13179 Filed 5–19–97; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

1997 Grant Awards to Applicants for Funds To Provide Civil Legal Services to Eligible Low-Income Clients in Service Areas MPA, TX–7, PA–3 and OH–11

AGENCY: Legal Services Corporation.

ACTION: Announcement of 1997 Competitive Grant Awards.

SUMMARY: The Legal Services Corporation (LSC or Corporation) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients, for the service areas for which competition was reopened in 1997.

DATES: All comments and recommendations must be received on or before the close of business on June 19, 1997.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE, 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Merceria Ludgood, Deputy Director, Office of Program Operations, (202) 336–8848.

SUPPLEMENTARY INFORMATION: Pursuant to the Corporation's announcement of funding availability on February 17, 1997 (62 FR 7070–7071) and April 14, 1997 (62 FR 18150–18151), LSC will award funds to one or more of the following organizations to provide civil legal services in the indicated service areas.

Service area	Applicant name
MPA	Philadelphia Legal Assistance Center.
TX–7 ...	Coastal Bend Legal Services.
PA–3 ...	Legal Aid of Chester County, Inc.
	Delaware County Legal Assistance Assoc., Inc.
OH–11	Legal Aid Society of Columbus.
	Central Ohio Legal Aid Society, Inc.
	Ohio State Legal Services.

Date Issued: May 15, 1997.

Merceria L. Ludgood,

Deputy Director, Office of Program Operations.

[FR Doc. 97–13193 Filed 5–19–97; 8:45 am]

BILLING CODE 7050–01–P

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Control Rod Insertion Problems

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a bulletin supplement that will request addressees to take actions to ensure the continued operability of the control rods. These actions will ensure that adequate shutdown margin is maintained and that the control rods will satisfactorily perform their intended function of effectively terminating the fission process during all operating conditions in accordance with the current licensing basis for each facility. The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed bulletin supplement presented under the Supplementary Information heading.

The proposed bulletin supplement has been endorsed by the Committee to Review Generic Requirements (CRGR). The relevant information that was sent to the CRGR will be placed in the NRC Public Document Room. The NRC will consider comments received from interested parties in the final evaluation of the proposed bulletin supplement. The NRC's final evaluation will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this bulletin supplement be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires June 19, 1997. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6D–69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, from 7:30 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Margaret S. Chatterton, (301) 415–2889.

SUPPLEMENTARY INFORMATION:

NRC Bulletin 96–01 Supplement 1: Control Rod Insertion Problems

Addressees

This bulletin supplement is being sent to all holders of pressurized-water reactor (PWR) operating licenses (except those that have certified that they are permanently shutdown). It is expected that recipients will review the information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. However, action is only requested from PWR licensees of Westinghouse and Babcock and Wilcox designed plants.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this supplement to Bulletin 96–01 to: (1) Alert addressees to the issues concerning incomplete control rod insertion as a result of distortion of the thimble tubes, (2) request all licensees of Westinghouse and Babcock and Wilcox designed plants take actions to ensure the continued operability of the control rods, and (3) require that all licensees of Westinghouse and Babcox and Wilcox designed plants send to the NRC a written response to this bulletin supplement relating to the actions and information requested in this supplement.

Background

Incomplete control rod insertion has been previously addressed by the NRC in Information Notice (IN) 96–12, "Control Rod Insertion Problems," dated February 15, 1996, and Bulletin 96–01, "Control Rod Insertion Problems," dated March 8, 1996. Bulletin 96–01 requested actions to ensure that all affected plants respond in a proactive manner to recent industry experience and support data collection that permitted the staff to more effectively assess this issue and determine whether further regulatory action was needed. Since Bulletin 96–01 was issued, there has been extensive investigation of the issue, including evaluation of plant data (trip, rod drop time, recoil and drag data), spent fuel pool testing, Zircaloy material property review, and review of worldwide experience.

Description of Circumstances

South Texas Project

On December 18, 1995, with South Texas Unit 1 at 100-percent power, a pilot wire monitoring relay actuation caused a main transformer lockout, which resulted in a turbine trip and a reactor trip. While verifying that control rods had inserted fully after the trip, operators noted that the rod bottom lights of three control rod assemblies were not lit; the digital rod position indication for each rod indicated six steps withdrawn. A step is equivalent to 1.59 cm (⅝ inch), and the top of the dashpot begins at 38 steps. One rod drifted into the fully inserted rod bottom position within 1 hour, and the other two rods were manually inserted later. During subsequent testing of all control rods in the affected banks, the rod position indication for the same three locations, as well as a new location, indicated six steps withdrawn. As compared to prior rod drop testing, no significant differences in rod drop times were noted before reaching the upper dashpot area for any of the control rods. Within 1 hour after the rod drop tests, two of the rods drifted to the rod bottom position and the other two were manually inserted. All four control rods were located in XLR fuel assemblies, which were in their third cycle, with burnup greater than 42,880 megawatt days per metric ton uranium (MWD/MTU).

Wolf Creek Plant

On January 30, 1996, after a manual scram from 80-percent power, five control rod assemblies at the Wolf Creek plant failed to insert fully. Two rods remained at 6 steps withdrawn, two at 12 steps, and one at 18 steps. At Wolf Creek, a step is equivalent to 1.59 cm (5/8 inch) and the top of the dashpot begins at approximately 30 steps. Three of the affected rods drifted to the fully inserted position within 20 minutes, one within 60 minutes, and the last one within 78 minutes. The results also indicate that there was some slowing down of affected rods before they reached the dashpot. After the scram, the licensee initiated emergency boration because all rods did not insert fully. During subsequent cold rod drop tests, the same five rods, plus an additional three rods, failed to fully insert. All of the affected rods were in 17x17 VANTAGE 5H fuel assemblies, with burnup greater than 47,600 MWD/MTU.

North Anna Plant

On February 21, 1996, during the insert shuffle in preparation for loading North Anna Unit 1, Cycle 12, two new control rod assemblies could not be removed with normal operation of the handling tool from the fuel assemblies in the spent fuel pool in which they were temporarily stored. The control rod assemblies were removed using the rod assembly handling tool in conjunction with the bridge crane hoist. The two affected fuel assemblies were VANTAGE 5H assemblies, which had achieved burnups of 47,782 MWD/MTU and 49,613 MWD/MTU during two cycles of irradiation.

At both South Texas units, a 14-foot active fuel length core design is used. Several differences between the standard 12-foot active fuel design and the 14-foot design are as follows: the 14-foot fuel design is approximately 76.2 cm (30 inches) longer than the standard fuel assembly design, it has 10 mid-grids compared to 8, and the dashpot region is 25.4 cm (10 inches) longer and comprises a double dashpot. The control rod radial clearances above and in the dashpot region of the 14-foot fuel assembly are similar to those of the standard design. The South Texas core contained three different 17x17 fuel types-Standard XL, Standard XLR, and VANTAGE 5H-all of which are designed and fabricated by Westinghouse. The core contained 57 control rods, all of which are silver-indium-cadmium rods. The four affected rods were found in twice-burned Standard XLR fuel assemblies.

During subsequent testing, the rod drop traces revealed no significant change in dashpot entry time; however, the affected rods did not show recoil on the rod drop trace. Recoil is a dampening effect that is normally seen in the traces as a result of contact of the control rod assembly spider hub spring with the fuel assembly. The testing of similar rods in Unit 2 revealed no adverse indications. One rod showed no recoil but inserted fully into the core.

When rod drop tests were performed at South Texas Unit 1 on March 4, 1996, seven rods failed to fully insert. The stuck rods were in fuel assemblies with burnups from 43,500 to 47,500 MWD/MTU. All seven stopped at 6 steps from the bottom. Again there was no significant degradation in the rod drop times.

During end-of-cycle (Unit 1 Cycle 6) rod drop tests on May 18, 1996, 11 rods did not fully insert; 9 stuck at six steps and 2 stuck at twelve steps. Two of the rods were in fuel assemblies with lower burnups—32,200 and 35,400 MWD/MTU.

Mid-cycle (Unit 1 Cycle 7) testing was performed on January 25, 1997, when the burnup reached approximately 32,000 MWD/MTU on the most burned rodded assembly in the new cycle. During this test two rods stuck at six steps. Both control rods were located in V5H fuel assemblies, which were in their second cycle with burnups of 26,100 and 27,400 MWD/MTU.

On February 8, 1997 when South Texas Unit 2 shutdown for refueling, four rods stuck at six steps and one rod stuck at twelve steps. The associated fuel assembly burnups were 39,800 to 52,700 MWD/MTU. Four of these five rods had shown zero or one recoil during rod drop testing in January 1996. Although all rod drop times were within technical specification limits, increases in rod drop times were observed for some rods. Examination of the rod drop traces showed marked differences from previous normal traces. Thus indicating resistance above the dashpot area.

At Wolf Creek, subsequent cold, full-flow testing of all of the control rod assemblies indicated that eight control rods, including the five control rods that did not fully insert following the reactor trip on January 30, 1996, did not fully insert when tripped. One control rod in core location H2 paused at 96 steps, stopped at 90 steps, and slowly inserted to 30 steps over the next 2 hours. The control rod was then manually inserted. The seven other affected rods stopped at various heights in the dashpot region, five of which fully inserted within 22 minutes. One of the other two drifted to the bottom within 1.5 hours; the remaining rod needed to be manually inserted. The remaining 45 rods fully inserted when dropped, although a number of them did not exhibit the expected number of recoils. Of the total 53 control rod assemblies, the assembly at core location H2 (the only rod stopping outside the dashpot region) was a hafnium control rod; the remaining were silver-indium-cadmium control rod assemblies. However, subsequent inspection of the hafnium rod did not indicate any adverse dimensional change. The licensee retested all rods that stuck, as well as those rods that failed to recoil more than twice, and the results were similar to the results of the previous testing.

At North Anna, the two affected control rods were removed and were inserted into a series of other fuel assemblies. No additional binding was observed. However, difficulty was experienced when another control rod was inserted into the two affected fuel assemblies. On the basis of this result, the licensee determined that the cause of the binding was related to the fuel assemblies and not the control rods. Subsequent control rod drag testing data indicated a correlation of control rod

drag force to assembly burnup and a significant increase in drag force at assembly burnups greater than 45,000 MWD/MTU.

Regulatory Requirements and Guidance

10 CFR part 50, Appendix B, Section XI, "Test Control" requires that "a test program shall be established to assure that * * * structures, systems, and components will perform satisfactorily * * *" The requested actions described below will assure that adequate shutdown margin is maintained and that the control rods will satisfactorily perform their intended function of effectively terminating the fission process during all operating conditions in accordance with the current licensing basis for each facility.

Regulatory guidance for the control rods is stated in General Design Criterion (GDC) 26, of Appendix A to 10 CFR part 50, "Reactivity Control System Redundancy and Capability," of Appendix A to 10 CFR Part 50 which specifies "Two independent reactivity control systems of different design principles shall be provided. One of the systems shall use control rods, preferably including a positive means for inserting the rods, and shall be capable of reliably controlling reactivity changes to assure that under conditions of normal operation, including anticipated operational occurrences, and with appropriate margin for malfunctions such as stuck rods, specified acceptable fuel design limits are not exceeded."

In addition, GDC 29 "Protection against anticipated operational occurrences," states that the protection and reactivity control systems shall be designed to assure an extremely high probability of accomplishing their safety functions in the event of anticipated operational occurrences.

Worldwide experience of incomplete control rod insertion problems (other than those caused by debris, foreign material, or control rod drive mechanism problems) has shown that the primary cause was thimble tube distortion caused by excessive compressive loads. This problem has been limited to fuel designs that incorporate small-diameter (approximately 0.5 inch) thimble tubes. Current data show that distortion significant enough to cause incomplete insertion has not occurred below certain burnup levels. Thus small-diameter thimble tube fuel designs are considered acceptable up to those burnup levels. In order to meet the current licensing basis for each facility, the ability to insert the control rods needs to be demonstrated for burnups that exceed these burnup levels. This ability can be demonstrated through testing at intervals or by a rigorous engineering analysis.

Discussion

The root cause explanation for the Wolf Creek event was that the increased compressive load was caused by greater than expected fuel assembly growth. The phenomenon appears to be dependent on a number of factors, including burnup, temperature, and power history, the interaction of which is not clearly understood. Nothing in this root cause explanation would preclude other fuel designs from exhibiting similar behavior at different combinations of burnup, power history, and core exit temperature. In addition, unknown factors may also contribute to the observed behavior.

The root cause of the incomplete control rod insertions at South Texas Project has been identified as excessive fuel assembly guide tube distortion in the dashpot. The reason for the distortion is inadequate resistance to buckling in the fuel assembly design under required loads and burnup.

The NRC staff has evaluated the data obtained as a result of Bulletin 96–01 and determined that while most of the high drag data has been in high-temperature plants, there have been a number of cases of high drag in lower temperature plants. High drag has been correlated with thimble tube distortion. Thus, it is not clear that plants with lower temperatures are not susceptible to thimble tube distortion, which can lead to incomplete control rod insertion.

Although fuel with intermediate flow mixing grids (IFMs) would appear to be stiffer and thus less susceptible to distortion, it has not been shown that this fuel is not susceptible to thimble tube bowing from compressive loads. Furthermore, since the mid-spans would be strengthened, the top and bottom spans might be the most susceptible portions of the fuel assembly and distortion of the top span could lead to control rods sticking very high in the core. Thus, the staff still considers this fuel susceptible to thimble tube distortion which can lead to incomplete control rod insertion.

Although incomplete control rod insertion has only been experienced in a small number of fuel assembly designs to date, the NRC staff believes that all designs that incorporate small-diameter thimble tubes need to be examined, since these small-diameter thimble tubes appear to be susceptible to distortion and thus susceptible to control rod binding problems at high burnup levels.

Bulletin 96–01 requested actions through calendar year 1996 only. However, the staff believes that continued actions, as stated in this supplement, are necessary in order to resolve the concerns about small-diameter thimble tube distortion leading to incomplete control rod insertion.

While the tests performed in response to Bulletin 96–01 did not reveal any additional incomplete control rod insertions and all rod drop times measured met the Technical Specification limits for drop times to top of the dashpot, there were other disturbing results. The drag measurements resulted in dashpot drag above the criteria in three plants and higher than normal drag in an additional six plants. Thimble tube measurements were above the criteria in six plants and high in three other plants. In addition, during measurements in the spent fuel pool control rods could not be fully inserted under their own weight in several plants.

Safety Assessment

The staff considers the potential for thimble tube distortion caused by high burnup and excessive compressive loads, leading to incomplete control rod insertion, a safety issue. In the absence of corrective actions that clearly eliminate the problem, the staff remains concerned about the ability to fully insert the control rods. The safety significance depends on the amount of shutdown margin lost because of incomplete control rod insertion. Were the control rods to stick high in the core, the reactor could not be shut down by the control rods, and other means, such as emergency boration, would be required.

At this time, the NRC staff considers all fuel designs that incorporate a small-diameter thimble tube to be potentially susceptible to thimble tube distortion caused by excessive compressive loads. Although the problem has only been observed in Zircaloy thimble tubes, the possibility of thimble tube distortion needs to be addressed for fuel assemblies incorporating other materials.

Requested Actions

In order to ensure the continued operability of the control rods, all licensees of Westinghouse and Babcock and Wilcox designed plants are requested to verify the full insertability and rod drop times by testing control rods in fuel assemblies with burnups greater than

35,000 MWD/MTU for assemblies without IFMs for 12 foot cores

40,000 MWD/MTU for assemblies with IFMs for 12 foot cores
25,000 MWD/MTU for assemblies in 14 foot cores

upon first reaching the limit(s) and approximately every 2,500 MWD/MTU until the end of cycle. In addition, end-of-cycle rod drop time tests and drag testing of all rodded fuel assemblies should be performed. Licensees are requested to submit their anticipated schedule for testing within 30 days of the date of this bulletin supplement. Within 30 days after completion of each set of testing, licensees are requested to submit a report that summarizes the data and documents the results obtained.

In order to meet the current licensing basis for each facility, the ability to insert the control rods needs to be demonstrated for burnups greater than those presented in the bulletin supplement. This ability can be demonstrated through testing at intervals specified above, or by a rigorous engineering analysis.

Required Response

Pursuant to Section 182a, the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f), all licensees of Westinghouse and Babcock and Wilcox designed plants must submit the following written information under oath and affirmation:

Within 30 days of the date of this bulletin supplement, a response indicating whether the requested actions will be taken and a schedule indicating when the actions will be performed. Licensees who choose not to take the requested actions must describe in their response any alternative course of action that they propose to take, including the basis for the acceptability of the proposed alternative course of action, and the schedule for completion of the alternative.

If, in the course of responding to this bulletin, a licensee determines that it is not in compliance with the Commission's rules and regulations, the licensee is expected to take corrective actions in accordance with the requirements of Section XVI of 10 CFR part 50, Appendix B.

Address the required written responses to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555–0001. In addition, submit a copy of the response to the appropriate regional administrator.

Related Generic Communications

NRC Information Notice 96–12, "Control Rod Insertion Problems" NRC Bulletin 96–01, "Control Rod Insertion Problems."

Backfit Discussion

This bulletin supplement transmits an information request pursuant to the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f) to determine whether addressees are taking appropriate action to ensure continued operability of the control rods. To the extent that the actions requested herein by addressees are considered backfits, the backfits are justified under the compliance exception of the backfit rule, that is, 10 CFR 50.109(A)(4)(i).

10 CFR Part 50, Appendix B, Section XI, "Test Control" requires that "a test program shall be established to assure that * * * structures, systems, and components will perform satisfactorily * * *" The requested actions previously described will assure that adequate shutdown margin is maintained and that the control rods will satisfactorily perform their intended function of effectively terminating the fission process during all operating conditions in accordance with the current licensing basis for each facility.

The objective of the actions requested in this bulletin supplement is to verify that licensees are complying with the current licensing basis for the facility with respect to shutdown margin and control rod drop times. The issuance of the bulletin is justified on the basis of the need to verify compliance with the current licensing basis with respect to shutdown margin and control rod drop times.

Dated at Rockville, Maryland, this 13th day of May, 1997.

Seymour H. Weiss,

Acting Deputy Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–13189 Filed 5–19–97; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on June 11–13, 1997, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, January 23, 1997 (62 FR 3539).

Wednesday, June 11, 1997

8:30 a.m.–8:45 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting and comment briefly regarding items of current interest. During this session, the Committee will discuss priorities for preparation of ACRS reports.

8:45 a.m.–10:45 a.m.: Digital Instrumentation and Control Systems (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final Standard Review Plan (SRP) sections, Branch Technical Positions (BTPs), Regulatory Guides (RGs) associated with digital instrumentation and control systems, the staff's safety evaluation report on the Electric Power Research Institute topical report on acceptance of commercial grade digital equipment for nuclear safety applications, and the staff's incorporation of the insights from the National Academy of Sciences/National Research Council (NAS/NRC) Phase 2 study into the proposed final SRP sections, BTPs, and RGs.

Representatives of the nuclear industry will participate, as appropriate.

11:00 a.m.–12:30 p.m.: Consequences of Reactor Water Cleanup System Line Break Outside the Containment (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the results of the study performed by the staff on the consequences of reactor water cleanup system line break outside the containment. The staff will also discuss the problems associated with automatic isolation of reactor water cleanup system piping at the Monticello nuclear power plant.

Representatives of the nuclear industry will participate, as appropriate.

1:30 p.m.–3:30 p.m.: PRA Implementation Plan (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the PRA Implementation Plan with emphasis on risk-informed initiatives in the areas of training and inspection, as well as an overview of the proposed risk-based inservice inspection program.

Representatives of the nuclear industry will participate, as appropriate.

3:45 p.m.–4:45 p.m.: Proposed Staff Position on the Severe Accident Rulemaking (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed staff position on generic rulemaking associated with severe accidents.

Representatives of the nuclear industry will participate, as appropriate.

4:45 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Thursday, June 12, 1997

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 a.m.–10:00 a.m.: Proposed Regulatory Approach Associated with Steam Generator Tube Integrity (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Nuclear Energy Institute regarding the proposed regulatory approach for addressing steam generator tube integrity issues and related matters.

Other interested parties will participate, as appropriate.

10:15 a.m.–12:00 noon: Proposed Final Generic Letter on Assurance of Net Positive Suction Head for Emergency Core Cooling and Containment Heat Removal Pumps (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed final Generic Letter on Assurance of Net Positive Suction Head for Emergency Core Cooling and Containment Heat Removal Pumps as well as the NRC staff's resolution of public comments on this matter.

Representatives of the nuclear industry will participate, as appropriate.

1:00 p.m.–2:30 p.m.: Proposed Generic Letter on Potential for Degradation of Emergency Core Cooling and Containment Spray Systems Following a Loss-of-Coolant Accident (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed Generic Letter on Potential for Degradation of Emergency Core Cooling and Containment Spray Systems Following a Loss-of-Coolant Accident due to Construction and Protective Coatings Deficiencies and Foreign Material in the Containment, and related matters.

Representatives of the nuclear industry will participate, as appropriate.

2:45 p.m.—3:00 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports, including the EDO response to ACRS comments and recommendations included in the April 8, 1997 ACRS report regarding Proposed Regulatory Guidance Related to Implementation of 10 CFR 50.59.

3:00 p.m.—3:30 p.m.: Future ACRS Activities (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings.

3:30 p.m.—7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, June 13, 1997

8:30 a.m.—9:00 a.m.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, qualifications of candidates nominated for appointment to the ACRS, and organizational and personnel matters relating to the ACRS.

(Note: A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.)

9:00 a.m.—12:00 noon: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

12:00 noon—1:00 p.m.: Strategic Planning (Open)—The Committee will continue its discussion of items of significant importance to NRC, including rebaselining of the Committee activities for FY 1998.

1:00 p.m.—1:30 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 1, 1996 (61 FR 51310). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during the open portions of the meeting, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) P.L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Chief, Nuclear Reactors Branch (telephone 301/415–7364), between 7:30 a.m. and 4:15 p.m. EDT.

ACRS meeting notices, meeting transcripts, and letter reports are now available on FedWorld from the "NRC MAIN MENU." Direct Dial Access number to FedWorld is (800) 303–9672 or ftp.fedworld. These documents and the meeting agenda are also available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Dated: May 14, 1997.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 97–13188 Filed 5–19–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of May 19, 26, June 2, and 9, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of May 19

Tuesday, May 20

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

2:00 p.m. Meeting with Advisory Committee on Nuclear Waste

(ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360)

Week of May 26—Tentative

There are no meetings scheduled for the week of May 26.

Week of June 2—Tentative

Wednesday, June 4

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

Week of June 9—Tentative

Thursday, June 12

1:30 p.m. Briefing on Status of License Renewal (Public Meeting)
3:00 p.m. Briefing on Steam Generator Issues (Public Meeting)
4:30 p.m. Affirmation Session (Public Meeting) (if needed)

Friday, June 13

9:00 a.m. Briefing on Medical Regulation Issues (Public Meeting)

* The schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact Person for More Information: Bill Hill (301) 415–1661.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/ SECY/smj/ schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, DC 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: May 16, 1997.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–13357 Filed 5–16–97; 2:18 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22660; 812–10440]

The Kent Funds; Notice of Application

May 14, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANT: The Kent Funds.

RELEVANT ACT SECTIONS: Order requested: (a) Under section 6(c) of the Act granting exemptions from sections 13(a)(2), 18(f)(1), 22(f), and 22(g) of the Act and rule 2a–7 thereunder; (b) under sections 6(c) and 17(b) granting exemption from section 17(a)(1) of the Act; and (c) under section 17(d) and rule 17(d)(1) thereunder to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicant requests an order that would permit it and each of its existing and future series to enter into deferred fee arrangements with its trustees and to effect certain transactions incidental thereto.

FILING DATES: The application was filed on November 20, 1996 and amended on April 21, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 9, 1997 and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 3435 Stelzer Road, Columbus, Ohio 43219.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or H. R. Hallock, Jr., Special Counsel, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is registered under the Act as an open-end management investment company and organized as a Massachusetts business trust. Applicant currently consists of fourteen investment portfolios (the "Funds"). Old Kent Bank, a Michigan banking association (the "Adviser"), serves as investment adviser for each portfolio.

2. Applicant's board of trustees currently consists of five persons, four of whom are not "interested persons" of applicant within the meaning of section 2(a)(19) of the Act. Each trustee, except the trustee who is an "interested person" of applicant, receives an annual retainer, plus an additional fee for each board meeting attended. The fees paid to the trustees are allocated among the Funds based on their relative net assets.

3. The deferred fee arrangement which has been adopted by applicant is implemented through a Deferred Compensation Plan (the "Plan"). The purpose of the Plan is to permit individual trustees to defer receipt of their fees to enable them to defer payment of income taxes on such fees, an arrangement which should help applicant attract and retain qualified trustees. The Plan may be amended from time to time, but such amendments will not be inconsistent with the relief granted to the applicant pursuant to the application. In addition, such amendments will be limited to immaterial amendments or supplements, or will be amendments or supplements made to conform the Plan to applicable law.

4. Under the Plan, the amount of a trustee's compensation deferred under the Plan (the "Compensation Deferrals") is credited to a book reserve account (each a "Deferral Account") each calendar quarter in which such fees would have otherwise been paid. The liability represented by the Deferral Account for each trustee is allocated among the Funds based on their relative net assets and recorded on the books of each Fund. Each Deferral Account will be credited or charged with book adjustments so that the value of the Deferral Account, as of any date, will be equal to the value such account would have had if the amount credited to it had been invested and reinvested in the investment alternative(s) designated by the trustee (the "Designated Investment(s)").

5. Currently, the only available Designated Investment under the Plan is 91-day U.S. Treasury Bills. Upon receipt of an order by the SEC, applicant intends to make certain of the Funds available as Designated Investments. The trustees may elect to change the Designated Investments for future or past Compensation Deferrals by delivering written notice to applicant's treasurer.

6. With respect to the obligations created under the Plan, each trustee will be a general unsecured creditor of each Fund. A Fund's obligation to make

payments with respect to a Deferral Account will be a general obligation of the Fund to be made *pro rata* from its general assets. The Plan does not create an obligation of the Trust or any Fund to purchase, hold, or dispose of any investments. If a Fund should choose to purchase investments in order to exactly "match" its obligations to credit or charge the Deferral Account with the earnings and gains or losses attributable to the Designated Investment(s), all such investments will be part of the general assets of such Fund. While matching would ensure that the Plan would have no effect on the net assets of any Fund, applicant believes that, even without matching, any such effect will be negligible since the amounts subject to the Plan are expected to be insignificant in comparison to the total assets of each Fund.

7. Any money market fund that values its assets by the amortized cost method will buy and hold the Desginated Investments that determine the performance of Deferral Accounts to achieve an exact match between the liability of any such Fund to pay Compensation Deferrals and the assets that offset that liability. Except in the case of money market Funds, applicant expects to effect matching transactions only if circumstances warrant, based upon a consideration of a Fund's total assets and the amount of deferred compensation subject to the Plan. In no event do the Funds anticipate purchasing or selling shares of other investment companies that may be Designated Investments to a greater extent than is permitted by section 12(d)(1) of the Act. Each Fund will vote shares of any affiliated Fund held pursuant to the Plan in proportion to the votes of all other holders of shares of such Fund.

8. Under the Plan, distribution from the trustee's Deferral Account may be made in a lump sum or in installments as elected by the trustee. The distribution would commence as of January 31st of the year following the year in which the trustee dies, retires, or otherwise ceases to be a member of applicant's board of trustees. In the event of death, amounts payable to the trustee under the Plan will become payable to a beneficiary designated by the trustee; in all other events, the trustee's right to receive payments is non-transferable. In addition, applicant may at any time make a single sum payment to a trustee equal to all or part of the balance in the trustee's Deferral Account. Such payment would be made upon a showing of an unforeseeable financial emergency caused by an event beyond the control of the trustee, which would result in a severe financial hardship to the trustee if such payment were not made.

9. The Plan does not, and will not obligate applicant to retain the services of a trustee, nor will it obligate applicant to pay any (or any particular level of) fees to any trustee. Rather, it will merely permit a trustee to elect to defer receipt of fees that would otherwise be payable from applicant.

Applicant's Legal Analysis

1. Applicant requests an order under section 6(c) of the Act granting relief from sections 13(a)(2), 18(f)(1), 22(f), and 22(g) of the Act and rule 2a–7 thereunder to the extent necessary to permit applicant to enter into deferred fee arrangements with its trustees; under section 6(c) and 17(b) of the Act granting relief from section 17(a)(1) to the extent necessary to permit the Funds to sell securities issued by them to other Funds in connection with such deferred fee arrangements; and pursuant to section 17(d) of the Act and rule 17d–1 thereunder to the extent necessary to permit applicant and the Funds to engage in certain joint transactions incident to such deferred fee arrangements.[1]

2. Section 6(c) of the Act provides, in part, that the SEC may, by order upon application, conditionally or unconditionally exempt any person, security or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Section 18(f)(1) of the Act generally prohibits a registered open-end investment company from issuing senior securities. Section 13(a)(2) of the Act requires that a registered investment company obtain shareholder authorization before issuing any senior security not contemplated by the recitals of policy in its registration statement. Section 18(g) of the Act defines "senior security" to include "any bond, debenture, note or similar obligation or instrument constituting a security and evidencing indebtness." Applicant states that the Plan does not and will not give rise to any of the "evils" that led to Congress' concerns in this area. Neither applicant nor any Fund will be "borrowing" from the trustees. The Plan will not induce speculative investments by any Fund or provide an opportunity for manipulative allocation of a Fund's expenses and profits, affect the control of any Fund, confuse investors or convey a false impression as to the safety of their investments, or be inconsistent with the theory of mutuality of risk.

4. Section 22(f) prohibits undisclosed restrictions on the transferability or negotiability of redeemable securities issued by open-end investment companies. The Plan would set forth such restrictions, and such restrictions are included primarily to benefit the participating trustee and would not adversely affect the interests of any trustee or any shareholder of the Funds.

5. Section 22(g) generally prohibits registered open-end investment companies from issuing any of their securities for services or for property other than cash or securities. Applicant states that the legislative history of the Act suggests that Congress was concerned with the dilutive effect on the equity and voting power of common stock of, or units of beneficial interest in, an open-end company if the company's securities were issued for consideration not readily valued. Applicants asserts that the Plan would not have this effect for the trustee's right to receive payments under the Plan is not granted in return for services or property other than cash already owed to the trustee. Applicant submits that the Plan would merely provide for deferral of the payment of such fees, and thus any rights under the Plan should be viewed as being "issued" not for services but in consideration of the Fund's not being required to pay such fees on a current basis.

6. Rule 2a–7 imposes certain restrictions on the investments of "money market funds," as defined under the rule, that generally would prohibit a Fund that is a money market fund from investing in the shares of other Funds. Applicant requests relief from the rule to permit the money market funds to invest in Designated Investments. This would enable such Funds to achieve an exact matching of the Designated Investment with the deemed investments of the Deferral Accounts, thereby ensuring that the deferred fee arrangements will not affect net asset value.

7. Section 17(a)(1) of the Act generally prohibits an affiliated person of a registered investment company, or any affiliated person of such person, from selling any security to such registered

[1] Applicant acknowledges that the requested order would not permit a party acquiring its assets to assume its obligations under the Plan if such assumption of obligations would violate the Act. Accordingly, such assumption would be permitted only if the assuming party is (1) another Fund, (2) another registered investment company that has received exemptive relief similar to that sought by the application, or (3) not a registered investment company.

investment company. Applicant submits that the Funds may be affiliated persons of each other pursuant to section 2(a)(3) of the Act by reason of being under common control of the Adviser. Applicant asserts that section 17(a)(1) was designed to prevent sponsors of investment companies from using investment company assets as capital for enterprises with which they are associated or acquire controlling interests in such enterprises. Applicant submits that the sale of securities issued by the various Funds pursuant to the Plan does not implicate Congress' concerns in enacting this section, but merely facilitates the matching of the liabilities for Compensation Deferrals with the Designated Investments, the value of which determines the amount of such liabilities.

8. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching; (b) the transaction is consistent with the policy of each registered investment company concerned; and (c) the transaction is consistent with the general purposes of the Act. Applicant submits that all Funds meet the standards for relief under section 17(b) of the Act. Applicant further submits that the requested relief from various provisions of the Act meets the standards for an exemption set forth in section 6(c) of the Act.

9. Section 17(d) and rule 17d–1 are designed to limit or prevent a registered investment company's joint or joint and several participation with an affiliated person in a transaction in connection with any joint enterprise or other joint arrangement or profit-sharing plan "on a basis different from or less advantageous than that of" the affiliated person. Applicant asserts that any adjustments made to the Deferral Accounts to reflect the income, gain, or loss with respect to the Designated Investments would be identical to the changes in share value experienced by any investor in the same investments during the same period, but whose securities were not held in a Deferral Account. The participating trustee would neither directly nor indirectly receive a benefit that would otherwise inure to the Funds or to any of their shareholders, and thus the Plan would not constitute a joint or joint and several participation by any Fund with an affiliated person on a basis different from or less advantageous than that of the affiliated person. Applicant asserts that the deferral of a trustee's fees in accordance with the Plan would maintain the parties, viewed both separately and in their relationship to one another, in the same position (apart from tax effects) as would occur if the trustees' fees were paid on a current basis and then invested by the trustee directly in the Designated Investments.

Applicant's Conditions

Applicant agrees that the order of the SEC granting the requested relief shall be subject to the following conditions:

1. With respect to the requested relief from rule 2a–7, any money market fund that values its assets by the amortized cost method will buy and hold the Designated Investments that determine the performance of Deferral Accounts to achieve an exact match between the liability of any such Fund to pay Compensation Deferrals and the assets that offset that liability.

2. If a Fund purchases Designated Investments issued by an affiliated Fund, the Fund will vote such shares in proportion to the votes of all other holders of shares of such affiliated Fund.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13100 Filed 5–19–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 19, 1997.

An open meeting will be held on Friday, May 23, 1997, at 2:00 p.m. A closed meeting will be held on Friday, May 23, 1997, following the 2:00 p.m. open meeting.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, the recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his option, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Wallman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Friday, May 23, 1997, at 2:00 p.m., will be:

Consideration of a concept release that would solicit comment on revising the Commission's oversight of alternative trading systems, national securities exchanges, and foreign market activities in the United States. The Commission is reevaluating its regulation of such entities in light of technology advances and the corresponding growth of alternative trading systems and cross-border trading opportunities. FOR FURTHER INFORMATION, please contact Kristen N. Geyer, Special Counsel, at (202) 942–0799; Gautam Gujral, Special Counsel, at (20) 942–0175; Marie Ito, Special Counsel, at (202) 942–4147; Paula R. Jenson, Deputy Chief Counsel, at (202) 942–0073; or Elizabeth King, Special Counsel, at (202) 942–0140.

The subject matter of the closed meeting scheduled for Friday, May 23, 1997, following the 2:00 p.m. open meeting, will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942–7070.

Dated: May 15, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–13276 Filed 5–16–97; 10:54 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38613; File No. SR–CBOE–97–09]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Inc., Relating to an Increase in Position and Exercise Limits for Industry Index Options

May 12, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February

[1] 15 U.S.C. § 78s(b)(1)(1988).

[2] 17 CFR 240.19b–4.

19, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange has requested accelerated approval for the proposal. This order approves the CBOE's proposal on an accelerated basis and solicits comments from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rules to increase position and exercise limits for narrow-based (or industry) index options from 6,000, 9,000, or 12,000 contracts to 9,000, 12,000, or 15,000 contract.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Exchange Rules 24.4A and 24.5 provide that position and exercise limits for narrow-based index options be set at one of three levels depending upon the weightings of the component securities in such narrow-based index. Accordingly, a narrow-based index option will have a 6,000 contract limit if a single component security accounts for more than 30% of the index value; a 9,000 contract limit if a single component security accounts for more than 20% (but less than 30%) of the index value or any five component securities together account for more than 50% of the index value; and a 12,000 contract limit for those narrow-based indexes that do not fall within any one of the other categories.[4] Because the current stringent position limits create difficulties for investors, the Exchange is proposing to increase these limits to 9,000, 12,000, and 15,000 contracts, respectively, based on existing qualifications for determining the appropriate position limit tier set forth in Exchange Rule 24.4A.

The CBOE also notes that the existing levels have been in place since 1995.[5] The Exchange believes that the proposed limits of 9,000, 12,000, and 15,000 contracts will increase the depth and liquidity of the market for narrow-based index options without causing any market disruption. In addition, the Exchange will continue to monitor for possible manipulation and violations of the position and exercise limits through the use of the monitoring systems currently in place, and notes that to date it has not found it necessary to open any manipulation inquiries notwithstanding prior increases in position and exercise limits.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it will allow investors to utilize narrow-based index options more fully as part of their investment portfolios as well as increase the depth and liquidity of the market, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system in a manner consistent with the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filings also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–97–09 and should be submitted by June 10, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) thereunder.

Since the inception of standardized options trading, the options exchanges have had rules imposing limits on the aggregate number of option contracts that a member or customer can hold or exercise. These rules are intended to prevent the establishment of large options positions that can be used or might create incentives to manipulate or disrupt the underlying market so as to benefit the options position. At the same time, the Commission has recognized that option position and exercise limits

[3] Position limits impose a ceiling on the number of option contracts which an investor or group of investors acting in concert may hold or write in each class of options on the same side of the market. (*i.e.*, aggregating long calls and short puts or long puts and short calls). Exercise limits prohibit an investor or group of investors acting in concert from exercising more than a specified number of puts or calls in a particular class within five consecutive business days.

[4] The CBOE currently lists options on over 20 narrow-based indices. As of January 15, 1997, the CBOE narrow-based indices at the 12,000 contract limit include CBOE Mexico Index, CBOE REIT Index, CBOE Telecommunications Index, CBOE Latin 15 Index, CBOE Technology Index, and CBOE Internet Index. As of January 15, 1997, the CBOE narrow-based indices at the 9,000 contract limit include S&P® Chemical Index, S&P® Health Care Index, S&P® Insurance Index, S&P® Retail Index, S&P® Transportation Index, CBOE Computer Software Index. CBOE Environmental Index, CBOE Gaming Index, CBOE Israel Index, CBOE Automotive Index, CBOE Oil Index, CBOE Gold Index, GSTI™ Hardware Index, GSTI™ Internet Index GSTI™ Multimedia Networking Index, GSTI™ Semiconductor Index, GSTI™ Services Index, and GSTI Software Index. Lastly, as of January 15, 1997, there are no narrow-based indices on the CBOE at the 6,000 contract limit.

[5] *See* Securities Exchange Act Release nO. 36439 (October 31, 1995), 60 FR 56075 (November 6, 1995) (order establishing position and exercise limits for narrow-based index options at 6,000, 9,000, or 12,000 contracts) (CBOE–95–56).

must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.

In this regard, the CBOE has stated that the current position limits discourage market participation by certain large investors and the institutions that compete to facilitate their trading. In addition, the CBOE notes that the index option trading volume has increased significantly since 1995, when the current narrow-based index option position limits were established. In light of the increased volume of narrow-based index option trading and the needs of investors and market makers, the Commission believes that the CBOE's proposal is a reasonable effort to accommodate the needs of market participants.

In addition, the Commission notes that the proposal, while increasing the positions limits for narrow-based index options, continues to reflect the unique characteristics of each index option and maintains the structure of the current three-tiered system. Specifically, the lowest proposed limit, 9,000 contracts, will apply to narrow-based index options in which a single underlying stock accounts, on average, for 30% or more of the index value during the 30-day period immediately preceding the Exchange's review of narrow-based index options positions limits. A position limit of 12,000 contracts will apply if any single underlying stock accounts, on average, for 20% or more of the index value or any five underlying stocks together account, on average, for more than 50% of the index value, but no single stock in the group accounts, on average, for 30% or more of the index value during the 30-day period immediately preceding the Exchange's review of narrow-based index option position limits. The 15,000 contract limit will apply only if the Exchange determines that the conditions requiring either the 9,000 contract limit or the 12,000 contract limit have not occurred.

The Commission believes that the proposed increases for the three tiers of 25%, 33%, and 50%, for highest to lowest, respectively, appear to be appropriate and consistent with the Commission's evolutionary approach to position and exercise limits. In this regard, the absence of discernible manipulative problems under the current three-tiered position and exercise limit system for narrow-based index options leads the Commission to conclude that the increases proposed by the Exchange are warranted. The Commission recognizes that there are no ideal limits in the sense that options positions of any given size can be stated conclusively to be free of any manipulative concerns. Based upon the absence of discernible manipulation or disruption problems under current limits, however, the Commission believes that the proposed limits can be safely considered. Accordingly, the Commission believes that the CBOE's proposed increases of existing position and exercise limits for narrow-based index options is appropriate.[6]

The Commission notes that the Exchange has had considerable experience monitoring the current three-tiered framework in narrow-based index options. The Commission has not found that differing position and exercise limit requirements based on the particular options product to have created programming or monitoring problems for securities firms, or to have led to significant customer confusion. Based on the current experience in handling position and exercise limits, the Commission believes that the proposed increase in position and exercise limits for narrow-based index options will not cause significant problems.

Finally, the Commission believes that the Exchange's surveillance programs are adequate to detect and to deter violations of position and exercise limits as well as to detect and deter attempted manipulative activity and other trading abuses through the use of such illegal positions by market participants.

The Commission finds good cause to approve the proposal prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** On October 24, 1996, the Commission approved an identical proposal for the Philadelphia Stock Exchange, Inc. ("Phlx").[7] The Phlx's proposal was subject to the full comment period and generated no responses. Similarly, on January 23, 1997, the Commission granted accelerated approval to an identical proposal for the American Stock Exchange, Inc. ("Amex").[8] Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule change on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2)[9] of the Act, that the proposed rule change (File No. SR–CBOE–97–09) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13099 Filed 5–19–97; 8:45 am]

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[6] The Commission continues to believe that proposals to increase position limits and exercise limits must be justified and evaluated separately. After reviewing the proposed exercise limits, along with the eligibility criteria for each tier, the Commission has concluded that the proposed exercise limit increases for the three-tiered framework do not raise manipulation problems or increase concerns over market disruption in the underlying securities.

[7] *See* Securities Exchange Act Release No. 37863 (October 24, 1996), 61 FR 56599 (November 1, 1996) (order establishing position and exercise limits for narrow-based index options at 9,000, 12,000, or 15,000 contracts) (Phlx–96–33).

[8] *See* Securities Exchange Act Release No. 38202 (January 23, 1997), 62 FR 4555 (January 30, 1997) (order establishing position and exercise limits for narrow-based index options at 9,000, 12,000, or 15,000 contracts) (Amex–96–41).

[9] 15 U.S.C. § 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38625; File No. SR–OCC–97–01]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of a Proposed Rule Change Permitting Certain Fund Shares To Satisfy Margin Requirements and Permitting the Use of Certain Fund Shares and Trust Units for Escrow Deposits

May 13, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 21, 1997, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR–OCC–97–01) as described in Items I, II, and III below, which items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will permit OCC participants to deposit with OCC certain shares issued by an open-end management investment company ("fund shares") as a form of margin. The

proposed rule change also will permit participants to make escrow deposits with OCC by using fund shares and certain publicly traded units of beneficial interest in unit investment trusts ("trust units").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Using Fund Shares as a Form of Margin

The proposed rule change will amend subparagraph (4) of OCC Rule 604(d), which sets forth the margin deposit eligibility requirements for debt and equity issues, to permit OCC participants to deposit as a form of margin collateral fund shares issued by open-end management investment companies that hold portfolios or baskets of common stocks. These classes of fund shares are traded and cleared like shares of common stock and are typically held in book-entry form at a securities depository. As a result, OCC believes it will be able to readily perfect a security interest in deposited fund shares and will be able to liquidate them if necessary. Accordingly, OCC believes it is appropriate to allow its participants to use fund shares as a form of margin collateral under the conditions specified in subparagraph (4) of Rule 604(d), which currently permits OCC participants to use approved trust units as margin deposits.[3]

To enable participants to deposit fund shares as margin collateral, the proposed rule change will amend the term "stock" defined in subparagraph (4) of Rule 604(d) to include fund shares. In addition, fund shares also will have to meet the requirements applicable to stocks under Rule 604(d) and be of a class approved by OCC for deposit as margin. Because Rule 604(d)(1) requires that a stock be exchange listed or traded on the NASDAQ National Market System, the "publicly traded" requirement of subparagraph (4) will be deleted as unnecessary.

The proposed rule change also will amend Section 11 of OCC's Interpretations and Policies to require that OCC's Membership/Margin Committee ("Committee") approve classes of fund shares for deposit as margin. Presently, World Equity Benchmark Shares ("WEBS") listed on the American Stock Exchange are the only class of fund shares the Committee has approved.

(2) Using Fund Shares and Trust Units as Escrow Deposits

The proposed rule change also will amend OCC Rule 1801(b), which relates to index option escrow deposits, by adding new subparagraph 2 which will define the term "common stocks" to include fund shares and trust units.[4] By adding this definition, OCC Rule 1801(b) will permit participants to use fund shares and trust units as part of an escrow deposit made with respect to index call option contracts carried in a short position in a participants' customer account.[5]

The language of the new definition parallels that of Rule 604(d), as proposed to be amended herein. Accordingly, fund shares and trust units deposited must meet the existing requirements for deposits of common stock under Rule 1801(b) and must be of a class approved by OCC for deposit as margin collateral. Because the Committee already has approved for deposit as margin SPDRs on the S&P 500 Index and S&P 400 Mid-Cap Index (as an eligible class of trust units) and WEBS (as as eligible class of fund shares), upon approval of this rule filing SPDRs and WEBS will be eligible for use as escrow deposits for short positions in index call options.[6]

OCC believes that the proposed rule change is consistent with the requirements of section 17A of the Act[7] and the rules and regulations thereunder because it expands the forms of margin collateral that may be deposited with OCC in a prudent and safe manner designed to assure the safeguarding of securities in OCC's custody and control.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which OCC consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] Currently, the only trust units approved for deposit as margin are Standard & Poor's ("S&P") Depository Receipts ("SPDRs") on the S&P 500 Index and S&P 400 Mid-Cap Index. Securities Exchange Act Release No. 38105, (December 31, 1996) 62 FR 1014 [File No. SR–OCC–96–13] (order approving a proposed rule change relating to unit investment trusts as margin collateral).

[4] The proposed rule change also will make technical changes to Rule 1801 to reflect the addition of new subparagraph (b)(2).

[5] OCC has filed with the Commission a proposed rule change (File No. SR–OCC–97–02) that will authorize OCC to issue and clear options on fund shares and trust units. OCC also asserts that, if approved by the Commission, fund shares and trust units will by definition become "underlying securities as defined by Article I, Section 1 of OCC's bylaws," and escrow deposits with respect to call option contracts on these underlying securities carried in a short position will be automatically permitted under the existing provisions of OCC Rule 610, which relates to the deposit of underlying securities in lieu of margin.

[6] If the Commission approves the proposed rule change, OCC will send a notice to each of its custodian banks advising them that the term "common stocks" as used in the Amended and Restated On-Line Escrow Deposit Agreement includes the SPDRs and WEBS identified above.

[7] 15 U.S.C. 78q–1.

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–97–01 and should be submitted by June 10, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[a]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13102 Filed 5–19–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38623; File No. SR–PCX–12]

Self-Regulatory Organizations; The Pacific Exchange, Inc.; Notice of Filing of Proposed Rule Change Modifying Rules on Disclosure of Financial Arrangements of Members

May 13, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 23, 1997, The Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend its rule on disclosure of financial arrangements of Members, to expand the scope of such arrangements that must be disclosed to the Exchange, to eliminate unnecessary provisions of the rule, and to clarify existing provisions.[2]

[a] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] The test of the proposed rule change is attached as Exhibit A to File No. SR–PCX–97–12, and is available for review at the principal office of PCX and in the Public Reference Room of the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange is proposing to make various changes to PCX Rule 4.18, "Disclosure of Financial Arrangement of Members." First, Rule 4.18, Subsection (a) Currently provides, in part, that a Market Maker, Floor Broker, Specialist or Member Organization who enters into a financial arrangement with any other member shall disclose to the Exchange the name of such member and the terms of the arrangement. The Exchange is proposing to replace "any other member" with "any other person or entity" and to replace "the name of such member" with "the identity of such person or entity." Accordingly, the amended rule will require that financial arrangements between Members and Non-Members be disclosed, while currently, only financial arrangements between Members must be disclosed. The Exchange believes that this expansion of the scope of financial arrangements that must be disclosed is appropriate because the Exchange needs to conduct adequate financial monitoring of its Members. The Exchange further believes that the distinction in the current rule between financing provided by Members and financing provided by Non-Members is unsound.

Second, Subsection (a) Currently defines "financial arrangement" for purposes of Rule 4.18 as "(1) The direct financing of a member's dealings upon the Exchange; or (2) any direct equity investment or profit sharing arrangement; or (3) any consideration over the amount of $5,000.00 that constitutes a gift, loan, salary or bonus." The Exchange is proposing to clarify and expand the third clause to provide: "any consideration over the amount of $5,000.00, including, but not limited to, gifts, loans, annual salaries or bonuses."

Third, the Exchange is proposing to eliminate Subsection (b), which currently provides that each Market Maker shall inform the Exchange immediately of the intention of any party (1) To change any financial arrangement as defined in this Rule; or (2) to issue a margin call. It further provides that on a form prescribed by the Exchange, a Market Maker shall submit to the Exchange a monthly report of his use or extension of credit pursuant to this Section. The Exchange believes that these requirements are unnecessary.

Fourth, the Exchange is proposing to eliminate subsection (c), which provides that the disclosure of financial arrangements pursuant to this Rule shall be the responsibility of all parties involved. The Exchange believes this provision is superfluous.

Finally, subsection (d) currently provides that unless otherwise agreed, the Exchange member shall submit to the Exchange notification of the initiation or termination of such financial arrangements within ten business days of the effective date of such arrangements. It further provides that failure to disclose financial arrangement terms to the Financial Compliance Department may result in disciplinary action by the Exchange. The Exchange is proposing to modify subsection (d) to provide that Exchange Members with financial arrangements must submit to the Exchange notification of the initiation, modification or termination of such financial arrangements in a form, time and manner approved by the Exchange. It further states that failure to disclose the terms of such financial arrangements to the Exchange may result in disciplinary action. The Exchange proposes eliminating the stated 10 business day rule in order to add flexibility for situations where an individual situation requires an immediate response.

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, and Section 6(b)(5) of the Act[3] in particular, in that it promotes just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which PCX consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–97–12 and should be submitted by July 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13095 Filed 5–19–97; 8:45 am]

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[4] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38620; File No. SR–PCX–97–13]

Self-Regulatory Organizations; The Pacific Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to the Use of the Internet or Similar Electronic Networks for Providing Market Quotations or Advertising to the General Public

May 13, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 23, 1997, The Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend PCX Rule 9.24 to require its Members and Member Organizations for which it is the designated examining authority ("DEA"), to obtain the consent of the Exchange prior to making use of the internet or similar electronic networks for the purpose of providing market quotations or advertising to the general public.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The text of the proposed rule change is attached as Exhibit A to File No. SR–PCX–97–13, and is available for review at the principal office of PCX and in the Public Reference Room of the Commission.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PCX Rule 9.24, "Radio, Television, Telephone Reports," currently provides that Member firms desiring to broadcast Exchange quotations on radio or television programs, or in public telephone market reports, or to make use of radio or television broadcasts for any business purpose, shall first obtain the consent of the Exchange by submitting an outline of the program. The rule further provides that the text of all commercials and program material (except lists of market quotations) about securities or investing sponsored by member firms on radio, television, or public telephone market reports, or program material supplied to these media shall be sent to the Exchange promptly following the program in which it is used.

The Exchange is proposing to add three provisions to the text of Rule 9.24. The first provision provides that Members and Member organizations desiring to make use of the internet or similar electronic networks for the purpose of providing market quotations or advertising to the general public, must first obtain the consent of the Exchange by submitting an outline of the program to the Exchange.

The second provision provides that the text of all commercials and program material (except lists of market quotations) about securities or investing sponsored by Member or Member Organizations on the internet, or similar electronic networks, or program material supplied to such media, must be sent to the Exchange promptly following the program in which it is used.

Finally, the Exchange is proposing to clarify the limited scope of Rule 9.24 by stating expressly that it only applies to Members and Member Organizations for which the Exchange is the DEA.

The Exchange believes that Rule 9.24 should be expanded given the increasing use of the internet and similar electronic networks in mass communications. Accordingly, the Exchange is proposing these amendments in order to preserve the essential purpose of Rule 9.24.

The Exchange believes that the proposal is consistent with Section 6(b) of the Act, and Section 6(b)(5) of the Act [3] in particular, in that it promotes just and equitable principles of trade

[3] 15 U.S.C. § 78f(b)(5).

and protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which PCX consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of PCX. All submissions should refer to File No. SR–PCX–97–13 and should be submitted by July 7, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13096 Filed 5–19–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38616; File No. AR–PCX–97–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc., Relating to the Elimination of Position and Exercise Limits for FLEX Equity Options

May 12, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 1, 1997, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission Is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX, pursuant to Rule 19b–4 of the Act, proposes to eliminate position and exercise limits for FLEX Equity Options under a two-year pilot program.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[4] 17 CFR 200.30-3(a)(12).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] In general, FLEX Equity Options provide investors with the ability to customize basic option features, including size, expiration date, exercise style, and exercise price.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt a two-year pilot program under which the position and exercise limits for FLEX Equity Options would be eliminated. Exchange Rule 8.107(c) currently provides that position limits for FLEX Equity Options are set at three times the position limits for non-FLEX equity options.[4] Rule 8.108(a) provides that the exercise limits for FLEX options are equivalent to the FLEX position limits prescribed in Exchange Rule 8.107.

The Exchange believes that the elimination of such limits is appropriate given the institutional nature of the market for FLEX Equity Options. The Exchange believes that many large investors find the use of exchange-traded options impractical because of the constraints imposed by position limits. The Exchange believes that the elimination of position limits will attract additional investors to exchange-traded options, thereby reducing transaction costs as well as improving price efficiency for all exchange-traded option market participants.

The Exchange also believes that FLEX Equity Options, after the elimination of position limits, may become an important part of large investors' investment strategies. In the absence of position limits, investors will be able to use these options to implement specific viewpoints regarding the underlying common stock.

In addition, pursuant to Section 13(d) of the Act and the rules and regulations thereunder, the inclusion of any option position is required when reporting the beneficial ownership of more than 5% of any equity security.[5] Such reporting requirement make large option positions widely known and easily monitored by regulators and other market participants. In this light, FLEX Equity Options trading will have the transparency of any exchange-traded option transaction or position (open interest) plus the call market focus of

[4] The Exchange notes that the elimination of position and exercise limits for FLEX Equity Options also has been proposed by other options exchanges. *See* Securities Exchange Act Release Nos. 37280 (June 5, 1996), 61 FR 29774 (June 12, 1996) (notice of File No. SR–Amex–96–19), and 38152 (January 10, 1997), 62 FR 2702 (January 17, 1997) (notice of File No. SR–CBOE–96–79).

[5] Pursuant to Rule 13d–3 under the Act, a person will be deemed to be the beneficial owner of a security if that person has the right to acquire beneficial ownership of such security within sixty days, including the right to acquire through the exercise of any option.

liquidity inherent in the Request for Quote ("RFQ") process. Similar to non-FLEX options, positions in FLEX options are required to be reported to the Exchange when an account establishes aggregate same-side of the market position of 200 or more FLEX option contracts. In this manner, the Exchange's proposal is based on the belief that manipulation is best controlled through active and transparent markets.

The Exchange recognizes the theoretical possibility that a would-be manipulator could initiate a large FLEX Equity Option RFQ with no intention of actually trading. Such tactics, however, would be obvious to the Exchange surveillance staff as well as to the Commission, and could be handled under current Exchange rules.

Pursuant to the two-year pilot program, the Exchange will provide to the Commission a status report on the program six months prior to its expiration. In addition, in connection with the monitoring and surveillance of the large FLEX Equity Option positions, Exchange members and member organizations (not including Market Makers) will be required to file a report with the Exchange whenever an account they are carrying holds a position in excess of three times the standard option position limit for that issue. In addition, the Options Clearing Corporation ("OCC") will be contacted when such a report is filed and will be asked to conduct a risk evaluation of the account and its position. If OCC's risk evaluation indicates a cause for concern, the Exchange will notify the member firm carrying the account and assess the circumstances of the transactions, along with the firm's view of the exposure of the account, and determine whether the account is approved and suitable for the strategies used. This monitoring of accounts should provide the Exchange with the information necessary to determine whether additional margin and/or capital charges should be imposed in light of the risks associated with this position in accordance with proposed Exchange Rule 8.107(c).

2. Statutory Basis

The PCX believes that the proposed rule change is consistent with Section 6(b) of the Act in general, and with Section 6(b)(5) in particular,[6] in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the PCX consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–97–09 and should be submitted by July 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

[6] 15 U.S.C. § 78f(b)(5) (1988).

[7] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13097 Filed 5–19–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38612; File No. SR–PCX–97–07]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc., Relating to Position and Exercise Limits

May 12, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 5, 1997, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below,[3] which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX, pursuant to Rule 19b–4 of the Act, is proposing to modify its rules on option position and exercise limits by (a) expanding the scope of its firm facilitation exemption, (b) clarifying its general rule on exercise limits, (c) increasing the position and exercise limits for narrow-based index options, and (d) expanding the broad-based index hedge exemption to include broker-dealers.[4]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4.

[3] On March 26, 1997, the PCX amended its rule filing. *See* letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, Pacific Exchange, Inc., to Matthew S. Morris, Office of Market Supervision, Division of Market Regulation, Commission, dated March 26, 1997 ("Amendment No. 1").

[4] The PCX has withdrawn those portions of its rule filing which related to FLEX Equity options, and has refiled these changes in File No. SR–PCX–97–09.

on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to modify several of its rules on position and exercise limits for equity and index options as follows:

Firm Facilitation Exemption

The PCX's firm facilitation exemption currently applies only to a member firm that facilitates and executes an order for its own customer.[5] The PCX is proposing to amend the firm facilitation exemption in two ways. First, a member firm will qualify for the exemption if it facilitates its own customer whose account it carries, whether the firm executes the order itself or gives the order to an independent broker for execution. Second, the exemption will be expanded to include member firms who facilitate another member's customer order. Such a customer order must be for execution only against the member firm's proprietary account. Further, unlike a member firm that facilitates its own customer, the resulting position will not be carried by the facilitating member firm.[6]

Specifically, PCX Rule 6.8, Commentary .08 currently provides that for the purpose of facilitating (in accordance with the provisions of PCX Rule 6.47(b)) orders of its own customer (one that will enter clear and have the resulting position carried with the firm) in non-multiply-listed Exchange options, the proprietary account of a member organization may receive and maintain an exemption ("facilitation exemption") from the applicable standard position limit to the extent that certain procedures and criteria are satisfied. The Exchange is proposing to replace this provision with another stating that to the extent that certain procedures and criteria are satisfied, a member organization may receive and maintain for its proprietary account an exemption ("facilitation exemption") from the applicable standard position limit in non-multiply-listed Exchange options for the purpose of facilitating, pursuant to the provisions of PCX Rule 6.47(b), (a) orders for its own customer (one that will have the resulting position carried with the firm) or (b) orders received from or on behalf of a customer for execution only against the member firm's proprietary account.[7]

Exercise Limits

PCX Rule 6.9 currently provides that Exchange member organizations are prohibited from exercising certain long positions in options dealt in on the Exchange as well as options dealt in on other options exchanges.[8] The Exchange is proposing to remove the phrase "of a class of options dealt in on the Exchange" in PCX Rule 6.9, Commentary .01, in order to make that Commentary consistent with current PCX Rule 6.9(a).

Narrow-Based Index Options

Pursuant to PCX Rule 7.6, the position and exercise limits for narrow based (industry) index options traded on the Exchange are currently set at 6,000, 9,000, and 12,000 contracts.[9] Specifically, Exchange rule 7.6(a) provides that position and exercise limits for narrow-based index options be set at one of three levels depending upon the weightings of the component securities in such narrow-based index. Currently, a narrow-based index option will have a 6,000 contract limit if a single component security accounts for more than 30% of the index value; a 9,000 contract limit if a single component security accounts for more than 20% (but less than 30%) of the index value or any five component securities together account for more than 50% of the index value; and a 12,000 contract limit for those narrow-based indexes that do not fall within any one of the other categories.

The Exchange is proposing to increase these position and exercise limits to 9,000, 12,000, and 15,000 contracts. The Exchange notes that the Commission has approved such increases to the position and exercise limits of other options exchanges.[10]

Broad-Based Index Hedge Exemption

PCX Rule 7.6, Commentary .02, currently provides that positions in broad-based index option issues traded on the Exchange, held in the aggregate by a customer (who is neither a member nor a broker/dealer) are exempt from this position limit rule to the extent that certain procedures and criteria are met. The Exchange is proposing to modify this provision and the subject procedures in several respects.[11]

First, the Exchange is proposing to extend the broad-based index hedge exemption to broker-dealers. Accordingly, the Exchange is replacing various references to "customer" in the text of Commentary .02 with references to "accounts," which refer to the accounts in which the exempt options positions are held (*i.e.*, the "hedge exemption account").

Second, the Exchange is proposing that it be allowed to grant approval of a broad-based index hedge exemption on the basis of verbal representations, provided that the hedge exemption account furnishes to the Exchange, within two business days (or such other time period designated by the Exchange) appropriate documentation sustaining the basis for the exemption.

Third, the Exchange is proposing to add a provision (at new subsection (c)) stating that a hedge exemption account that is not carried by a PCX member organization must be carried by a member of a self-regulatory organization participating in the Intermarket Surveillance Group ("ISG").

Fourth, the Exchange is eliminating current subsections (c) and (d) and replacing them with new subsection (d), which provides that the hedge exemption account must maintain a qualified portfolio, or will effect transactions necessary to obtain a qualified portfolio concurrent with or at

[5] The PCX defines a customer order as one that is entered, cleared, and in which the resulting position is carried with the firm.

[6] The Commission notes that any solicitation of a member by another member or customer to facilitate a customer order must comply with the relevant Exchange rules concerning solicited transactions.

[7] According to the PCX, the text of the proposed rule is substantially the same as the text of the first paragraph of Interpretation and Policy .06 to CBOE Rule 4.11 as well as the first paragraph of Commentary .10 to Amex Rule 904 and Commentary .02 to Amex Rule 904C. *See* Securities Exchange Act Release Nos. 37808 (October 10, 1996) 61 FR 54691 (October 21, 1996) (File No. CBOE–96–35), and 37945 (November 13, 1996) 61 FR 59122 (November 20, 1996) (File No. Amex–86–32).

[8] *See* Securities Exchange Act Release No. 36350 (October 6, 1995), 60 FR 53654 (October 16, 1995) (approval order relating to members' compliance with position and exercise limits for non-PCX listed options) (File No. PSE–95–17).

[9] *See* Securities Exchange Act Release No. 36537 (November 30, 1995), 60 FR 62916 (December 7, 1995) (order approving increases to narrow-based index option position and exercise limits from 5,500, 7,500, and 10,500 contracts to 6,000, 9,000 and 12,000 contracts) (File No. PSE–95–30).

[10] *See, e.g.*, Securities Exchange Act Release Nos. 37863 (October 24, 1996), 61 FR 56599 (November 1, 1996) (File No. Phlx–96–33), and 38202 (January 23, 1997), 62 FR 4555 (January 30, 1997) (File No. Amex–96–41).

[11] The Exchange notes that the Commission has approved similar changes to the rules of the CBOE. *See* Securities Exchange Act Release No. 37504 (July 31, 1996), 61 FR 40868 (August 6, 1996) (File No. CBOE–96–01).

or about the same time [12] as the execution of the option position of: (1) a net long or short position in common stocks in at least four industry groups and contains at least twenty stocks, none of which account for more than fifteen percent of the value of the portfolio or in securities readily convertible, and additionally in the case of convertible bonds, economically convertible, into common stocks which would comprise a portfolio, and/or (2) a net long or short position in index futures contracts or in options on index futures contracts, or long or short positions in index options or index warrants, for which the underlying index is included in the same margin or cross-margin product group cleared at the Options Clearing Corporation ("OCC") as the index option class to which the hedge exemption applies. To remain qualified, a portfolio must at all times meet these standards notwithstanding trading activity.

Fifth, the Exchange is proposing to clarify the method of determining the unhedged value of a "qualified portfolio." Accordingly, subsection (e) of Commentary .02 will provide that the unhedged value will be determined as follows: (1) the values of the net long or short positions of all qualifying products in the portfolio are totaled; (2) for positions in excess of the standard limit, the underlying market value (A) of any economically equivalent opposite side of the market calls and puts in broad-based index options, and (B) of any opposite side of the market positions in stock index futures, options on stock index futures, and any economically equivalent opposite side of the market positions, assuming no other hedges for these contracts exist, is subtracted from the qualified portfolio; and (3) the market value of the resulting unhedged portfolio is equated to the appropriate number of exempt contracts as follows: the unhedged qualified portfolio is divided by the corresponding closing index value and the quotient is then divided by the index multiplier or 100.

Sixth, the proposal specifies that only the following qualified hedging transactions and positions are eligible for purposes of hedging a qualified portfolio (*i.e.*, stocks, futures, options, and warrants): (1) Long put(s) used to hedge the holding of a qualified portfolio; (2) Long call(s) used to hedge a short position in a qualified portfolio; (3) Short call(s) used to hedge the holding of a qualified portfolio; and (4) Short put(s) used to hedge a short position in a qualified portfolio. In addition, the proposal states that the following strategies may be effected only in conjunction with a qualified stock portfolio: (5) For non-P.M. settled, European-style index options only—a short call position accompanied by long put(s), where the short call(s) expire with the long put(s), and the strike price of the short call(s) equals or exceeds the strike price of the long put(s) (a "collar") (provided that neither side of the collar transaction can be in-the-money at the time the position is established;[13] (6) For non-P.M. settled, European-style index options only—a long position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expire with the long put(s), and the strike price of the long put(s) exceed the strike price of the short put(s) (a "debit put spread position"); and (7) For non-P.M. settled, European-style index options only—a short call position accompanied by a debit put spread position, where the short call(s) expire with the puts and the strike price of the short call(s) equals or exceeds the strike price of the long put(s) (provided that neither side of the short call, long put transaction can be in-the-money at the time the position is established.[14]

Finally, the Exchange is proposing to add a new provision stating that positions included in a qualified portfolio that serve to secure an index hedge exemption may not also be used to secure any other position limit exemption granted by the Exchange or any other self-regulatory organization or futures contract market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The self-regulatory organization does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed new change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–97–07 and should be submitted by June 10, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

[12] The Exchange expects that the hedge will be established concurrently with or immediately following the execution of the option transaction absent good cause. In this regard, the Exchange notes that extreme market conditions, the implementation of circuit breakers, or the lack of liquidity may affect a market participant's ability to establish a hedge within the noted time-frame.

[13] For purposes of determining compliance with PCX Rules 6.8 and 7.6, a collar position will be treated as one contract.

[14] For purposes of determining compliance with PCX Rules 6.8 and 7.6, the short call and long put positions will be treated as one contract.

[15] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 97–13098 Filed 5–19–97; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38621; File No. SR–PCX–97–11]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to FLEX Equity Options Waiver Extension

May 13, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder,[2] notice is hereby given that on April 23, 1997, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the PCX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to waive all customer, firm and market maker transaction fees for transactions in FLEX Equity Options until further notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below The PCX has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On February 14, 1996, the Commission approved an Exchange proposal for the listing and trading of Flexible Exchange (FLEX) Options on equity securities, pursuant to Rule 8.100.[3] The Exchange commenced trading of FLEX Equity Options on October 24, 1996. On October 31, 1996, the Commission approved an Exchange proposal to waive, for three months, all customer, firm and market maker transaction fees for transactions in FLEX Equity Options.[4] The Exchange extended the waiver for three additional months, ending on Wednesday, April 29, 1997.[5] The Exchange is now proposing to extend the waiver until further notice. The purpose of the waiver is to encourage customers, firms and market makers to execute transactions in FLEX Equity Options on the Exchange and to respond to competitive actions in the industry.

2. Statutory Basis

The proposal is consistent with Section 6(b)(5)[6] of the Act because it is designed to facilitate transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, as amended, establishes or changes a due, fee, or other charge imposed by the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[7] of the Act and subparagrah (e) of Rule 19b–4[8] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change, as amended, that are filed with the Commission, and all written communications relating to the proposed rule change, as amended, between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–97–11 and should be submitted by July 7, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 97–13101 Filed 5–19–97; 8:45 am]
BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before June 19, 1997. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4
[3] *See* Securities Exchange Act Release No. 36841 (February 14, 1996), 61 FR 6666 (February 21, 1996).
[4] *See* Securities Exchange Act Release No. 37901 (October 31, 1996), 61 FR 57508 (November 6, 1996).
[5] *See* Securities Exchange Act Release No. 38254 (February 6, 1996), 62 FR 6823 (February 13, 1996).
[6] 15 U.S.C. 78f(b)(5).
[7] 15 U.S.C. 78s(b)(3)(A).
[8] 17 CFR 19b–4(e).
[9] 17 CFR 200.30-3(a)(12).

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, D.C. 20416, Telephone: (202) 205–6629.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Statement of Personal History.

Form No.: SBA Form 912.

Frequency: On Occasion.

Description of Respondents: Applicants for Assistance or Temporary Employment in Disaster Office.

Annual Responses: 50,000.

Annual Burden: 12,500.

Dated: May 14, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–13192 Filed 5–19–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region V—Rocky Mountain States Regional Fairness Board; Public Meeting

The U.S. Small Business Administration Region V Rocky Mountain States Regional Fairness Board, located in the geographical area of Chicago, Illinois will hold a public meeting at 10:00 am on Wednesday, May 28, 1997, at the Denver Metro Chamber of Commerce Bldg., 1445 Market Street, 5th Floor, Denver, CO 80202, to inform the small business community of the existence of a regulatory enforcement oversight process (SBREFA) and of SBA's desire to collect information regarding businesses experience with regulatory enforcement actions.

For further information, call Mr. Chris Chavez at (303) 844–0501 or Mr. Gary Peele at Detroit District Office, 4767 Michigan Avenue, Room 515, Detroit, MI 48226, or call him on (312) 353–0880.

Michael P. Novelli,

Director, National Advisory Council.

[FR Doc. 97–13191 Filed 5–19–97; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of the Advisory Committee for Trade Policy and Negotiations

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the June 5, 1997, meeting of the Advisory Committee for Trade Policy and Negotiations will be held from 10 a.m. to 2 p.m. The meeting will be closed to the public from 10 a.m. to 1:30 p.m. and open to the public from 1:30 p.m. to 2 p.m.

SUMMARY: The Advisory Committee for Trade Policy and Negotiation will hold a meeting on June 5, 1997 from 10 a.m. to 2 p.m. The meeting will be closed to the public from 10 a.m. to 1:30 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to section 2155(f)(2) of Title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. The meeting will be open to the public and press from 1:30 p.m. to 2 p.m. when trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

DATES: The meeting is scheduled for June 5, 1997, unless otherwise notified.

ADDRESSES: The meeting will be held at the Madison Hotel in the Dolly Madison Room, located at 15th and M Streets, Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT:

Suzanna Kang, Office of the United States Trade Representative, (202) 395–6120.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 97–13151 Filed 5–19–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the two Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and approval. The ICRs describes the nature of the information collection and its expected burden. The **Federal Register** notice with a 60-day comment period soliciting comments on information collection 2133–0027 was published on March 5, 1997 [62 FR 10109]. The **Federal Register** notice with a 60-day comment period soliciting comments on information collection 2133–0511 was published on February 27, 1997 [62 FR 9015].

DATES: Comments must be submitted on or before June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Edna Brown, Maritime Administration, MAR–318, Room 7301, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–4146. Copies of these collections can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration

1. *Title of Collection:* Capital Construction Fund and Exhibits.

OMB Control Number: 2133–0027.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: U.S. citizens which own or lease one or more eligible vessels and that have a program to provide for the acquisition, construction or reconstruction of a qualified vessel as defined in section 607(k)(2) of the Act.

Abstract: The collection consists of application for a Capital Construction Fund agreement under section 607 of the Merchant Marine Act, 1936 as amended, and annual submissions of appropriate schedules and exhibits. The Capital Construction Fund is a tax deferred ship construction fund that was created to assist owners and operators of U.S.-flag vessels in accumulating the large amount of capital necessary for the modernization and expansion of the U.S. merchant marine. The program encourages

construction, reconstruction, or acquisition of vessels through the deferment of Federal income taxes on certain deposits of money or property placed into a CCF.

Need and Use of the Information: The collected information is used by the Maritime Administration to determine an applicant's eligibility to enter into a CCF Agreement.

Annual Burden Estimate: The annual burden estimate is 1,996 hours.

2. *Title of Collection:* EUSC/Parent Company.

OMB Control Number: 2133–0511.

Type of Request: Extension of currently approved information collection.

Affected Public: Foreign register American vessel owners which complete the information collection and return it to the Maritime Administration.

Abstract: The collection consists of an inventory of information regarding Foreign register vessels owned by Americans. Specifically, this information consists of responses from vessel owners verifying or correcting vessel ownership, data and characteristics found in commercial publications.

Need and Use of the Information: The verification of information on vessels that could be vital in a national or international emergency is essential to the logistical support planning by MARAD's Office of National Security Plans and the Logistics Plans Division of the Office of the Chief of Naval Operations. The information will be used for contingency planning for sealift requirements primarily as a source of ships to move essential oil and bulk cargoes in support of the national economy.

Annual Burden Estimate: The annual burden is 46 hours.

Comments Are Invited On—

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Issued in Washington, DC on May 13, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–13203 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Townships of Manns Harbor and Manteo, Dare County, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project within the townships of Manns Harbor and Manteo and a new crossing of the Croatan Sound, Dare County, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Roy C. Shelton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone 919/856–4350.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to improve a portion of US 64–264 from the intersection of US 64 and US 264 west of Manns Harbor to the intersection of US 64 and NC 345 south of Manteo was issued on November 23, 1993 and published in the November 12, 1993 **Federal Register**. The FHWA, in cooperation with North Carolina Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway project and hereby rescinds the previous Notice of Intent.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: May 12, 1997.

Roy C. Shelton,

Operations Engineer, Raleigh, North Carolina.

[FR Doc. 97–13085 Filed 5–19–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–29; Notice 01]

Consumer Information; National Academy of Sciences' Study

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comment.

SUMMARY: This notice summarizes a recent study by the National Academy of Sciences titled "Shopping for Safety—Providing Consumer Automotive Safety Information." The study makes a number of recommendations to NHTSA on ways to improve automobile safety information for consumers. This notice requests comments on NHTSA's response to the recommendations of this study and on programs NHTSA has begun or is considering to address these recommendations. NHTSA is requesting comments because it wishes to develop these programs in cooperation with other interested parties.

DATES: *Comment Date:* Comments must be received by August 18, 1997.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Mary Versailles, NPS–31, Office of Safety Performance Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Ms. Versailles can be reached by phone at (202) 366–2057 or by facsimile at (202) 366–4329.

SUPPLEMENTARY INFORMATION:

Background

As part of the agency's regulatory reform commitment, and the formation of the Planning and Review Division in Safety Performance Standards (NPS), a comprehensive review of NHTSA's motor vehicle safety consumer information programs has been undertaken. This activity reflects the agency's increased focus on consumer information complementing the traditional engineering standards focus of its rulemaking function.

In 1994, NHTSA held four town meetings as part of the reform effort. The purpose of these meetings was to let NHTSA hear directly from the public what kind of automobile safety

information they want and how NHTSA can best provide it to them. Based on some of the comments at these meetings, consumers want more information about available safety features, expanded outreach for NHTSA's safety information, and an overall safety rating for vehicles.

As part of the Department of Transportation and Related Agencies Appropriations Act, 1995 (P.L. 103–331; September 30, 1994), Congress provided NHTSA funds "for a study to be conducted by the National Academy of Sciences (NAS) of motor vehicle safety consumer information needs and the most cost effective methods of communicating this information." The NAS study was completed and released to the public on March 26, 1996. It is titled "Shopping for Safety—Providing Consumer Automotive Safety Information," TRB Special Report 248. Based on its findings, the study makes recommendations to NHTSA on ways to improve automobile safety information for consumers. The recommendations are classified in three categories: Improvements to Existing Information, Development of Summary Measures, and Development of a Process to Stimulate Better Consumer Safety Information and Safer Cars.

Using the NAS recommendations and input from the public meetings as a guide, NPS is striving to improve significantly the motor vehicle safety consumer information that NHTSA provides to the American public. This notice summarizes the NAS study and requests comments on NHTSA's response to the recommendations of this study. NHTSA is also requesting comment on some specific ongoing and planned programs that address these recommendations.[1]

Improvements to Existing Information

In the short term, the study recommends that NHTSA provide consumers with more explicit information on: the importance of vehicle size and weight; the benefits of (and proper use of) safety features such as seat belts and anti-lock brakes; the frequency of crash types for which test results are available; and the uncertainties associated with crash test results. The study also recommends that NHTSA establish the reliability of crash test results and identify the source(s) of variance in those results. The final short-term recommendation is that NHTSA improve the presentation and dissemination of existing safety information by increasing awareness of the availability of this information and by making the information more accessible.

NHTSA agrees with all of these recommendations except the recommendation to establish the reliability of crash test results and identify the source(s) of variance in those results. In 1984, NHTSA thoroughly examined this issue with respect to the New Car Assessment Program (NCAP) and implemented changes to reduce test variability, such as more consistent placement of the test dummy and the initiation of an instrument auditing system. However, crash tests will always have some variability. A star rating system was introduced for NCAP in 1994. This system further reduces the influence of variability in that vehicles with a range of numerical dummy readings have the same star rating. Usually, the star ratings given by the manufacturer and NHTSA are different only if the vehicle's numerical rating is on the border of the range of scores for a star rating.

NHTSA agrees with the recommendations to provide more consumer information and to improve the presentation and dissemination of consumer information. NHTSA will continue efforts in existing areas, including long-term programs related to the benefits and proper use of safety belts and in more recent efforts to address issues regarding children and air bags. Information on the frequency of various crash types (frontal, side, rear, rollover) are available. NHTSA will look at ways to make that information and other information more accessible by broadening the dissemination outlets that the agency uses.

NHTSA plans improvements to two existing consumer brochures, the Uniform Tire Quality Grading brochure and "Buying a Safer Car." The Uniform Tire Quality Grading brochure was developed in 1986 to provide information to consumers on what they should look for when purchasing new tires. It answers some common questions consumers ask about tire grades, treadwear, traction, and temperature resistance. A final rule was published in September 1996, adding a higher grade for traction. NHTSA plans to update the brochure to include the additional grade and provide consumers with additional tire safety tips. If appropriate, a public service announcement (PSA) may be developed to compliment the information provided in the brochure.

Beginning with model year 1995 vehicles, NHTSA, in cooperation with the American Automobile Association (AAA) and Federal Trade Commission (FTC), has published the "Buying a Safer Car" brochure. The brochure contains NCAP crash test results and safety feature information for new motor vehicles.

The "Buying a Safer Car" brochure is being updated for model year 1997. For example, the safety feature section will be modified as one feature highlighted in previous brochures, side impact protection, is now mandatory for all vehicles. Also, in its fiscal year 1997 budget, NHTSA received money to conduct side impact testing in a program similar to the NCAP program (this program is referred to as side impact NCAP). The crash test result section will be modified to add crash test results for the new side impact NCAP program.

NHTSA is examining ways to increase the number of copies distributed from previous years. The brochure will be advertised in new areas to reach additional audiences. The NAS study also recommends that safety information be available in dealer showrooms. NHTSA is interested in comments on the usefulness of having this and other safety materials available at the showroom for prospective buyers.

In addition, building on the success of "Buying a Safer Car," a new brochure titled "Buying a Safer Car for Child Passengers" is under development. The brochure will inform consumers on the hazards that air bags present to children and provide advice on other vehicle features that can increase the safety of children in vehicles. The brochure will identify vehicles that have special equipment, such as built-in child seats and manual air bag cut-off switches that enhance children's safety, and discuss features car buyers can watch for to decrease the chance of vehicle/child seat incompatibility. Like "Buying a Safer Car," the agency hopes that the new brochure will be a joint effort with groups such as child transportation safety advocates, AAA, and other national organizations.

NHTSA is also planning other new consumer information programs. One such program would be the development of consumer information materials on preventing motor vehicle theft. Specifically, a theft prevention PSA designed to alert consumers to remove their keys from their vehicle's ignition, to lock the doors, and other tips to prevent vehicle theft will be developed. In addition, a brochure will be created to give consumers information on how they can help deter theft; information on the types of programs in place in various states that

[1] The notice only discusses programs of the Planning and Review division in NPS. Consumer information programs in other NHTSA offices are not discussed.

are helping to reduce and deter vehicle theft, and/or designed to enhance the recovery of vehicles; a list of the top 20 most stolen vehicles; desirable components of an antitheft system; and a list of the vehicle lines with agency-approved antitheft systems.[2] Again, this could be a collaborative effort between NHTSA and other public and private sector organizations.

Another new project concerns rollover. There are over 200,000 rollover crashes involving light duty passenger vehicles annually. These result in over 9,000 fatalities and over 50,000 serious, incapacitating injuries. Rollover crashes occur for many reasons and involve the interaction of a variety of factors including the driver, the roadway, the vehicle, and environmental conditions. NHTSA is pursuing a broad range of actions to address the rollover problem as part of its comprehensive rollover plan. Many of these actions are of a technical nature, however, consumer information activities which change the behavior of drivers and occupants can also reduce the rollover rate (e.g., driving too fast for road conditions) or can lessen the injuries and fatalities if a rollover occurs (e.g., wearing safety belts). In addition to some of the existing consumer information actions, the agency would like to develop a video to highlight "do's and don'ts" in common situations that result in rollover crashes or increase injuries when a rollover occurs.

With regard to the importance of vehicle size and weight, NHTSA believes that most consumers have an understanding that a larger and/or heavier vehicle is safer for the occupants of that vehicle.[3] Some information on effect of vehicle size and weight is included in NHTSA information, for example, NCAP press releases. NHTSA will explore whether anything can be added to this information to make it more useful to consumers. NHTSA is interested in any suggestions for ways to present this information to consumers.

In the area of proper use of vehicle safety features, NHTSA will look at ways to disseminate more information. Educational materials, in the form of PSAs, brochures, and consumer advisories, will be developed to ensure the driver understands correct driving behavior and is able to interact properly with the system. For example, drivers are not fully educated on whether their vehicles have anti-lock brakes (ABS) and, if so, how properly to use these systems. Another area where an educational program can address misuse of safety features is proper use and positioning of head restraints.

NHTSA will continue recent efforts to improve presentation and dissemination of consumer information materials. On November 27, 1996, NHTSA published a final rule amending Standards No. 208 and 213 to require new, attention-getting warning labels for vehicles without advanced passenger-side air bags and for rear-facing child seats. The labels were part of a comprehensive plan the agency is undertaking to reduce the adverse effects of air bags, especially the adverse effects for children. As part of the process leading to these amendments, the agency conducted focus groups to test public reaction to possible changes to the labels. NHTSA will continue to do qualitative research, including focus groups to learn more about what type of information is useful and how it can best be presented. NHTSA believes the use of focus groups in this rulemaking helped to ensure that the information on the labels was understandable to consumers and increased the chance that the labels could affect consumer behavior.

On October 1, 1995, NHTSA introduced a home page on the Internet. This medium has provided the agency with an opportunity to greatly advance automotive safety by enabling people to more easily access agency information. During the first month of 1997, over 8,000 users made over 50,000 queries to the NCAP database on the home page.[4] The site has been redesigned since its opening to make it more interesting and helpful, and to increase ease of use. However, not everything is complete. NHTSA is continuing to make changes to convert files to more readable documents and will continue to add files to accommodate additional information. NHTSA is interested in working with other organizations that have web sites (e.g., manufacturers, insurance companies, or auto clubs) to provide links between those sites and NHTSA's site.

NHTSA will work with other partners and customers, both internal and external, to provide information to consumers, similar to the successful partnership with the AAA and the FTC to produce the annual "Buying a Safer Car" brochure. NHTSA has found that such activities are more beneficial to all when a more cooperative approach is used to resolve potential safety problems.

Finally, responding to the President's directive for a new approach to the way government interacts with the private sector to improve the regulatory process, several public meetings have been held in the past few years with regard to vehicle-related safety issues. The agency has conducted public meetings on safety issues including mirrors, vehicle lamps and reflective devices, school bus safety, and heavy vehicle safety. Such public outreach meetings will continue to be held in the future.

Development of Summary Measures

In the long term, the study recommends the development of one overall measure that combines relative importance of crashworthiness[5] and crash avoidance[6] features for a vehicle. The study recognizes however, that, for the foreseeable future, summary measures of crashworthiness and crash avoidance must be presented separately due to differences in current level of knowledge, and differences in the roles of vehicle and driver in the two areas. For now, the NAS study recommends that the agency develop a summary measure of a vehicle's crashworthiness which incorporates quantitative information supplemented with the professional judgment of automotive experts, statisticians, and decision analysts. NHTSA should provide information with this measure to reflect the range of uncertainty in those judgments. For crash avoidance, the study recommends the development of a checklist of features for the near future.

The study also recommends that NHTSA present consumer information in a hierarchically organized approach. Such an approach would have the most highly summarized information on a vehicle label with a graphical display or on a checklist. This could be part of the current labels on new vehicles, or, preferably, a separate label focusing on safety information. The next level of information would be an accompanying brochure with more detailed explanations of the summary measures, information on the assumptions used in those calculations, etc. The most

[2] Manufacturers of vehicles classified as high theft vehicle lines must inscribe or affix vehicle identification numbers on certain major original equipment and replacement parts. Manufacturers may petition NHTSA to exempt high theft vehicle lines from this requirement if all vehicles in the line are equipped, as standard equipment, with an antitheft device that NHTSA has determined is likely to be as effective as parts marking to reduce vehicle theft.

[3] Conversely, in a collision, a larger, heavier vehicle decreases the safety for occupants of the smaller, lighter vehicle.

[4] The first number is much smaller than the second because a single user will typically query the database many times during a user session.

[5] Crashworthiness refers to a vehicle's ability to protect occupants from serious injury or death when a crash occurs.

[6] Crash avoidance refers to a vehicle's ability to prevent a crash from occurring.

detailed level would be a handbook with complete comparisons of all vehicles.

Other longer term recommendations are the development of a multichannel approach to the dissemination of information, including NHTSA's Auto Safety Hotline, the Internet, asking the insurance industry and automobile clubs to include information in their mailings, having NHTSA information printed in consumer journals, having safety information included in driver education courses, and public service announcements. The NAS study also recommends that the agency conduct research into consumer decision making and safety information requirements. The research would examine how consumers conceptualize auto safety, how consumers use safety information in choosing a vehicle, and how safety information can best be communicated and disseminated.

NHTSA agrees in principle with all of these recommendations. Surveys of new car buyers indicate that safety has become an important factor in new car purchase decisions.[7] In fact, over 75 percent of the respondents in a recent NHTSA customer survey indicated that safety was a "very important" consideration in their vehicle purchase decision. As the NAS study points out, "little systematic information is available on what consumers believe or understand about vehicle safety, or how and when they think about safety in choosing a vehicle." Accordingly, as recommended by the NAS study, research efforts will be conducted to determine what consumers believe about vehicle safety, how they think about safety in buying a vehicle, what information is most important, and how it can be best presented. The results of this research will provide the foundation for the development of NPS' future motor vehicle safety consumer information activities.

NHTSA plans to conduct the research in two phases. In the first phase, the project will examine what consumers believe or understand about vehicle safety, their level of awareness of vehicle safety information and where such information is available, and how (if at all) they use such information in their decision to buy a particular vehicle. In the second phase, NHTSA will attempt to determine the most effective public information strategies and messages for reaching consumers through various media. Research will be conducted to determine what vehicle safety information is most helpful to consumers, how it can be best presented, and how can it best be introduced into the car-buying process.

In fiscal year 1992, Congress asked NHTSA to provide consumers with easily understandable vehicle safety performance information. As a result of this request, beginning with model year 1994 vehicles, NHTSA has presented NCAP data using a star rating system. The system represents a vehicle's relative level of crash protection in a head-on collision, combining both head and chest injury data.

For the first year of the new side impact NCAP program, NHTSA is using a star rating system. NHTSA is studying the possibility of combining frontal NCAP and side impact NCAP ratings into a single rating. This single rating would represent the vehicle's relative level of crash protection in both a head-on and side collision. Such a program could be a first step to a summary crashworthiness rating. Additional tests being researched by NHTSA now or in the future (e.g., offset frontal) could be added to such a rating in the future. The agency plans to perform research to determine whether consumers would find a combined rating useful and whether information conveyed by the star rating system is easily comprehended.

In addition to the project to combine frontal NCAP and side impact NCAP data into a single rating, the agency has considered a number of approaches to exploring the NAS study recommendation that a comprehensive crashworthiness rating be developed. One approach would be a Federal Advisory Committee to develop a method that the agency or others could use to "rate" new vehicles. Such method would indicate what quantitative information should be used (both from NHTSA and from other sources), how such information should be combined, and how such information would be supplemented with expert judgement. Such a committee would have to be formally chartered before this action could begin. If a Federal Advisory Committee were used, the committee's recommendations would be advisory only.

Another option would be for NHTSA to conduct a negotiated rulemaking. If an agreement as to a method were reached under this option, NHTSA would agree to propose a new consumer information regulation. However, a regulatory approach may be less desirable, as rulemaking to amend the regulation would have to be conducted whenever the state of knowledge is advanced enough to allow more defensible information and less expert judgement to be used in the rating system. NHTSA is particularly interested in comments on the process NHTSA should use to explore this recommendation.

NHTSA has considered another alternative to the rating recommended by the NAS study. That alternative would involve the development of a standard means by which manufacturers would establish the degree to which a specific vehicle make/model exceeded the minimum requirements in the safety standards. Consumers would be able to use such information to make their own comparisons of various vehicles.

With respect to the NAS study recommendation to develop a list of important crash avoidance features, NHTSA is considering going slightly beyond the study's recommendation. In developing the recommendations, the NAS study committee conducted a survey to test reaction to two summary rating labels. The crash avoidance information on both of the sample labels used by NAS provides comparative information on some crash avoidance features, rather than indicating only the presence or absence of the feature. This suggests that the NAS recommendation to develop a list of crash avoidance features is not the goal, but a beginning in a process to develop more specific information for consumers on the crash avoidance capabilities of vehicles.

Using the new vehicle models to be crash tested in the NCAP program, NHTSA believes that some comparative crash avoidance information can be obtained. Prior to the crash test, additional tests could be performed on these vehicles without affecting the vehicles' usefulness for NCAP testing. Examples of such information would be comparative information on a vehicle's braking ability or lighting. In the area of braking, NHTSA plans to evaluate performance on curves with different peak coefficients of friction, as well as straight-line stopping distances on dry pavement. With respect to lighting, NHTSA plans to evaluate work that has been done by the industry to quantitatively assess how pleasing a headlamp beam pattern will be to vehicle purchasers. This would make additional comparative information on these vehicles available to consumers. The agency is interested in comments on the usefulness of comparative crash avoidance information and the type of information most desired by consumers. Based on the response received, research will be conducted to develop test protocols for additional attributes that could be measured on future NCAP vehicles.

[7] National Highway Traffic Safety Administration 1995 Customer Satisfaction Survey.

NHTSA particularly supports the NAS study's recommendation that consumer information be provided in different, hierarchical, levels of detail. First, NHTSA requests comments on the NAS study recommendation that safety information be labeled on new vehicles. Specifically, NHTSA asks about the preference for a new label separate from existing labels. If a respondent does not believe that this information should be on a vehicle label, NHTSA asks for comments on alternative means to provide this information to consumers.

In addition, NHTSA is concerned that the owner's manual currently may contain too much and too detailed information for consumers to be able to locate the most important safety tips they should know and follow. Some manufacturers currently use a "safety card," similar to the card found in airline passenger seat pockets to alert consumers to critical safety information. Using focus groups, NHTSA will explore the usefulness of such a card. We will also test ways to devise a format for such a card and how best to disseminate it. NHTSA plans to look at existing owner's manual requirements, especially those paired with a labeling requirement. Since many of these paired requirements are for the same information, NHTSA requests comments on whether the information should be solely in the owner's manual, solely on the label, or if the agency should require the owner's manual to present additional, more detailed information on the subject covered by the label.

Development of a Process to Stimulate Better Consumer Safety Information and Safer Cars

The final recommendation of the study is the development of an organizational structure to create and disseminate consumer safety information and to provide a process to continuously improve the measures used to report vehicle performance and safety and, as a result, lead to safer cars. The study lists six attributes of a successful organization to achieve these ends: involvement of the major stakeholders (NHTSA, manufacturers, insurance industry, consumer groups), balance between responsiveness and independence, openness, continuity, funding, and feasibility. The study then lists the following five possible institutional arrangements: operation through existing NHTSA programs; operation through a new NHTSA Federal Advisory Committee (FAC); creation of a new public-private automotive safety institute; operation through the private sector; and operation through nongovernmental organizations (i.e., public interest groups). The study concludes that the two institutional arrangements with the highest probability of success are a new NHTSA FAC or a new public-private institute.

For the immediate future, NHTSA will try to implement the recommendations of the NAS study through existing NHTSA programs, in particular the Planning and Review Division in the Office of Safety Performance Standards. NHTSA is not as skeptical as the NAS study about the chance of success with this approach, particularly as some named drawbacks are not inherent in the approach. For example, one named drawback involved the lack of participation of major stakeholders. However, in the rulemaking area, NHTSA is required by Federal law to provide notice of any action it is considering and to address any relevant comments received in response to that notice. Thus, in that area there is a process to allow all interested parties to participate. As noted in some of the discussions above, NHTSA also tries to ensure participation from outside interests in other projects even when not statutorily required. NHTSA believes it can at least reduce the effect of the named drawbacks by being aware of them when undertaking projects in this area.

If a Federal Advisory Committee is used as the means to develop a summary crashworthiness measure, that activity will also allow NHTSA and other interested parties to evaluate the possibility of the use of a FAC for a broader approach to implementing the recommendations of the study. NHTSA is concerned about the recommendation to create a public-private institute. First, as the study notes, such an activity would have a long start-up period and other approaches would be necessary in the interim. Second, while some of the stakeholders may be able to finance a large share of the costs of such an institute (i.e., manufacturers), others do not have such resources (i.e., consumer groups). Thus, NHTSA is concerned about whether the interests of all stakeholders could be fairly represented. However, NHTSA is interested in comments on any of the approaches addressed in the study, or in suggestions for other approaches.

Specific Requests for Comments

When commenting on this notice, the agency requests that respondents address the following:

(1) Indicate whether or not you support each NAS recommendation and the reasons why.

(2) Identify those cases where you believe NHTSA's response to a NAS recommendation and/or NHTSA's planned consumer information activities to address the recommendation are inadequate or inappropriate. Discuss the basis for your position, in particular, if you believe NHTSA's response is inadequate, discuss what you believe is an appropriate response.

(3) Identify additional actions not recommended by NAS that you believe NHTSA should undertake to improve motor vehicle safety consumer information.

(4) Identify actions your organization would be willing to take, alone or in collaboration with NHTSA, to assist in implementing the NAS recommendations and improving motor vehicle safety consumer information.

Submission of Comments

Interested persons are invited to submit comments on this notice. It is requested but not required that 10 copies be submitted.

Comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage respondents to detail their primary arguments in a concise fashion.

If a respondent wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on May 14, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–13185 Filed 5–15–97; 3:08 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Sec. 5a Application No. 118 (Amendment No. 1), et al. [1]]

EC-MAC Motor Carriers Service Association, Inc., et al.

AGENCY: Surface Transportation Board.

ACTION: Request for additional comments.

SUMMARY: The Board is seeking additional comments from interested persons on the consolidated applications of seven regional motor carrier rate bureaus for authority to expand their activities nationwide. The Board notes that, as part of its evaluation of whether the scope of the regional rate bureaus' antitrust immunity should be expanded, it will begin the process of addressing whether it should renew all current motor carrier rate bureau agreements prior to their statutory expiration (absent renewal) on December 31, 1998.

DATES: Comments are due by August 18, 1997. Replies are due by October 17, 1997.

ADDRESSES: Send an original and 10 copies of pleadings referring to Sec. 5a Application No. 118 (Amendment No. 1), *et al.* to: Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

Also, send one copy to the representative of each applicant in Sec. 5a Application No. 118 (Amendment No. 1), *et al.*:

1. EC–MAC Motor Carriers Service Association, Inc., John W. McFadden, Jr., Suite 1302, 2200 Clarendon Blvd., Arlington, VA 22201.

2. Middlewest Motor Freight Bureau, Inc., Bryce Rea, Jr./William E. Kenworthy, #420, 1920 N Street, N.W., Washington, DC 20036.

3. Niagara Frontier Tariff Bureau, Inc., Robert G. Gawley, P.O. Box 548, Buffalo, NY 14225–0548.

4. Pacific Inland Tariff Bureau, Inc., Bryce Rea, Jr./William E. Kenworthy, #420, 1920 N Street, N.W., Washington, DC 20036.

5. Rocky Mountain Motor Tariff Bureau, Inc., Don R. Devine, No. 2, 10 Lakeside Lane, Denver, CO 80212.

6. Southern Motor Carriers Rate Conference, Inc., S.D. Schwartzberg, 1307 Peachtree Street, N.E., Atlanta, GA 30309; John R. Bagileo, Bagileo, Silverberg & Goldman, #120, 1101 30th Street, N.W., Washington, DC 20007.

7. The New England Motor Rate Bureau, Inc., Keith Vaskelionis, Sr., 128 Wheeler Road, Burlington, MA 01803.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The Board's decision in these proceedings is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289–4357.

Decided: May 7, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13163 Filed 5–19–97; 8:45 am]

BILLING CODE 4915–00–P

[1] This notice embraces six other motor carrier rate bureau applications. Traditionally, such applications have been identified as "Section 5a" applications, in reference to section 5a of the Interstate Commerce Act as it existed prior to its 1978 codification. The "Section 5a Application" numbers, application amendment numbers, and bureau names for the embraced applications are: Sec. 5a Application No. 34 (Amendment No. 8), *Middlewest Motor Freight Bureau, Inc.*; Sec. 5a Application No. 46 (Amendment No. 20), *Southern Motor Carriers Rate Conference, Inc.*; Sec. 5a Application No. 22 (Amendment No. 7), *Pacific Inland Tariff Bureau, Inc.*; Sec. 5a Application No. 60 (Amendment No. 10), *Rocky Mountain Motor Tariff Bureau, Inc.*; Sec. 5a Application No. 45 (Amendment No. 13), *Niagara Frontier Tariff Bureau, Inc.*; and Sec. 5a Application No. 25 (Amendment No. 8), *The New England Motor Rate Bureau, Inc.*, Certain minor issues in Sec. 5a Application No. 46 (Amendment No. 20), *Southern Motor Carriers Rate Conference*, are also the subject of a separate **Federal Register** notice being published simultaneously.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33383]

Illinois Central Corporation and Illinois Central Railroad Company—Corporate Family Transaction Exemption

Illinois Central Corporation, a noncarrier holding company (IC Corp.) and Illinois Central Railroad Company (ICR), a Class I rail carrier,[1] have jointly filed a verified notice of exemption. IC Corp. has formed a new subsidiary in the State of Illinois known as the IC Railroad Acquisition Company (ICAC). ICR will be merged into ICAC, with ICAC as the surviving entity.

The transaction is to be consummated on or after May 14, 1997.[2] The transaction will allow the reincorporation of ICR in the State of Illinois and will more closely align ICR's corporate structure with its existing business and operations.

The creation of the new subsidiary ICAC and the merger of ICR into ICAC are transactions within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in changes in service levels, operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to this exemption, any employees adversely affected by the transaction will be protected under *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33383, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Myles L. Tobin, Esq., Illinois Central Railroad Company, 455 North Cityfront Plaza Drive, Chicago, IL 60611–5504.

Decided: May 13, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13160 Filed 5–19–97; 8:45 am]

BILLING CODE 4915–00–P

[1] ICR, a Delaware corporation, is a wholly owned subsidiary of IC Corp. ICR controls and operates the Waterloo Railway Company (WLO), a Class III rail carrier, and also owns non-controlling stock interests in 5 switching and terminal railroads.

[2] Upon consummation, ICAC will become a wholly owned rail carrier subsidiary of IC Corp and the parent of WLO. In addition, ICAC will be renamed Illinois Central Railroad Company.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Sec. 5a Application No. 46 (Amendment No. 20)]

Southern Motor Carriers Rate Conference, Inc.

AGENCY: Surface Transportation Board.

ACTION: Request for comments.

SUMMARY: The Board is seeking comments from interested persons on the application filed by the Southern Motor Carriers Rate Conference, Inc. (SMC), for approval of amendments to its by-laws. The proposed amendments are described below.

DATES: Comments are due by June 19, 1997.

ADDRESSES: Send an original and 10 copies of pleadings referring to Sec. 5a Application No. 46 (Amendment No. 20) to: Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

Also, send one copy to SMC's representative: John R. Bagileo, Bagileo, Silverberg & Goldman, #120, 1101 30th Street, N.W., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: SMC is seeking Board approval for amendments to its by-laws. The amendments fall into three categories: (1) SMC's renewed request for territorial expansion with a proposed amendment to Article I of its by-laws that would increase the scope of its operating territory from various southern states to all points within the United States; [1] (2) SMC's proposal to accord shippers and other noncarriers some form of bureau membership; and (3) SMC's proposed by-law revisions effecting minor changes in internal operating procedures.

1. Territorial Expansion

We will rule on SMC's renewed request for territorial expansion when we rule on pending similar requests made by other rate bureaus in EC–MAC. Our decision on the requests for territorial expansion will be made in a single, consolidated decision in Section 5a Application No. 118 et al., EC–MAC Motor Carriers Service Association, Inc., et al. (EC–MAC).[2] In other words, all of the requests for territorial expansion, including the one proposed in the instant application, will be considered in the consolidated EC–MAC proceeding, and parties seeking to comment on SMC's request for territorial expansion should file their comments in that proceeding in response to the notice that we are simultaneously publishing therein. In the interest of expedition, the minor changes in internal operating procedures (changes not involving territorial expansion or noncarrier membership) proposed by SMC in the instant application will be considered separately, and a separate decision will be rendered on them.

SMC opposes any consolidation of this application with the other applications in EC–MAC, even if the consolidation would involve only the issue of territorial expansion. SMC argues that the facts and legal grounds cited in support of its request for territorial expansion have no bearing on the other applications, and the evidence supporting the other applications has no relevance to its application. Thus, according to SMC, it would be prejudiced by any consolidation and is entitled to a stand-alone proceeding on the merits of its application.

We disagree. All applications share common legal issues, even if the facts and commenting parties may differ between applications. In any event, consolidation would not prevent us from differentiating among the applications on their merits, to the extent that differentiation is truly required. We are willing and able to determine whether the record supports the territorial expansion of some bureaus but not others and, if necessary, to reach different results for different applications. Consolidation would also ensure that we decide all of the requests for territorial expansion at the same time, which will avoid the competitive disadvantage that would result if applications were approved at different times. Finally, consolidation would be administratively more efficient for the Board.

2. Bureau Membership for Shippers and Other Noncarriers

SMC also proposes a new Article II that would create a new associate membership class comprised of non-motor carriers of property, such as shippers and logistics companies, who would pay fees and/or assessments fixed by the Board of Directors. Because this involves a more substantive change that could establish a precedent for other bureaus, we will consider this proposal along with the issue of territorial expansion in EC–MAC. Parties seeking to comment on this proposal should file their comments in EC–MAC in response to the notice that we are simultaneously publishing therein.

3. Minor Changes

In this proceeding, we seek comments on the proposed by-law revisions that are not related to territorial expansion and bureau membership for shippers and other non-carriers, which are summarized as follows:

1. Current Article I would be changed to delete the requirement that carrier members submit certain information about their operations and financial structure. SMC alleges that the requirement of this information was removed by the ICC Termination Act of 1995.

2. A new paragraph VI of Article XIII would establish a specific procedure for reaching agreement as to divisions when interlining takes place.

3. A new Article XVII would release SMC officers, agents, and employees from damages due to the exercise of their powers except as to damages due to bad faith or gross negligence.

4. The changes would also delete a provision involved an agreement with the Niagara Frontier Tariff Bureau, Inc., pertaining to the filing of joint agency tariffs. SMC alleges that the underlying agreement is no longer operative.

5. Other amendments would change "Board of Governors" to "Board of Directors," change the titles of various officers, and effect other changes in names.

We seek comments on whether these minor amendments proposed by SMC meet the criteria of 49 U.S.C. 13703(a)(2). The comments on these minor amendments should be filed in this docket.

[1] SMC filed a prior request for nationwide territorial expansion in Section 5a Application No. 46 (Amendment No. 19), Southern Motor Carriers Rate Conference, Inc. By decision entered by the Secretary and served on Nov. 4, 1996, the Board vacated this prior application at SMC's request. In the instant application, SMC renews its request for territorial expansion and proposes additional changes.

[2] Before this notice was served, EC–MAC embraced: Section 5a Application No. 22 (Amendment No. 7), Pacific Inland Tariff Bureau, Inc.; Section 5a Application No. 45 (Amendment No. 13), Niagara Frontier Tariff Bureau, Inc.; Section 5a Application No. 60 (Amendment No. 10), Rocky Mountain Motor Tariff Bureau, Inc., and Section 5a Application No. 34 (Amendment No. 8), Middlewest Motor Freight Bureau, Inc. The instant application will be consolidated with this group for consideration of the issues of territorial expansion and noncarrier bureau membership. This consolidation will be effected via a separate, separately published notice and decision in EC–MAC. The separate decision in EC–MAC will also grant the petition of the New England Motor Rate Bureau, Inc., to reinstate its application in Section 5a Application No. 25 (Amendment No. 8) and will reconsolidate this application with the other applications in EC–MAC.

Copies of the applications and amendments are available for inspection and copying at the Office of the Secretary, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423, and from applicant's counsel.

Decided: May 7, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13162 Filed 5–19–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Surface Transportation Board.

ACTION: Clarification of STB decision.

SUMMARY: The Western Coal Traffic League (League), an association of utility coal shippers, seeks clarification of our inclusion of approximately $24 million in below-the-line special charges for the Illinois Central Railroad (IC) and Soo Line Railroad (Soo) in the 1995 productivity decision served February 18, 1997.[1] The League asserts that a railroad-related below-the-line special charge for the Southern Pacific Railroad (SP) was not included in the 1994 productivity calculation.[2]

We included the 1995 below-the-line special charges of IC and Soo in the productivity calculation because the information contained in the railroads' Annual Reports and interviews conducted by our audit staff with the railroads' accounting personnel convinced us the 1995 below-the-line special charges were railroad-related expenses. The railroads incurred these below-the-line special charges for prepayment of debt on railroad property and equipment. Clearly, the payment of debt on rail properties is railroad-related and is properly included in the productivity calculation.

The League contrasts our action here with the finding that SP's 1994 below-the-line special charge was not rail-related. On further review, we find that the 1994 SP below-the-line special charge of $9,872,000 was for post-employment benefits for former railroad employees. We agree with the League that this special charge is railroad-related and should be included in the 1994 productivity calculation. However, because of the small size of this below-the-line special charge, its inclusion in the 1994 productivity calculation would not change the productivity measure.

EFFECTIVE DATE: May 20, 1997.

FOR FURTHER INFORMATION CONTACT: H. Jeff Warren, (202) 565–1549. TDD for the hearing impaired: (202) 565–1695.

It is ordered:

1. The inclusion of the below-the-line special charges of the IC and Soo in the 1995 productivity calculation is affirmed.

2. The 1994 below-the-line special charge of the SP is appropriately included in the 1994 productivity measure.

3. This decision is effective on [service data].

This action will not significantly affect either the quality of the human environment or energy conservation.

Decided: May 7, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13161 Filed 5–19–97; 8:45 am]

BILLING CODE 4915–00–P

[1] Notice of availability of the Board's full decision was published at 62 FR 7294, (February 18, 1997).

[2] Productivity Adjustment-Implementation, 9 I.C.C.2d 1072, 1082 (1993), requires the inclusion of railroad-related below-the-line special charges in the productivity calculation.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8615

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8615, Tax for Children Under Age 14 Who Have Investment Income of More Than $1,300.

DATES: Written comments should be received on or before July 21, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Tax for Children Under Age 14 Who Have Investment Income of More Than $1,300.

OMB Number: 1545–0998.

Form Number: 8615.

Abstract: Under Internal Revenue Code section 1(g), children under age 14 who have unearned income may be taxed on part of that income at their parent's tax rate. Form 8615 is used to see if any of the child's unearned income is taxed at the parent's rate and, if so, to compute the child's tax on his or her unearned income and earned income, if any.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500,000.

Estimated Time Per Respondent: 1 hr., 28 min.

Estimated Total Annual Burden Hours: 730,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. [Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of

information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 13, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–13217 Filed 5–19–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6781

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6781, Gains and Losses From Section 1256 Contracts and Straddles.

DATES: Written comments should be received on or before July 21, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Gains and Losses From Section 1256 Contracts and Straddles.

OMB Number: 1545–0644.

Form Number: 6781.

Abstract: Form 6781 is used by taxpayers in computing their gains and losses on Internal Revenue Code section 1256 contracts under the marked-to-market rules and gains and losses under Code section 1092 from straddle positions. The data is used to verify that the tax reported accurately reflects any such gains and losses.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 16hr., 40 min.

Estimated Total Annual Burden Hours: 1,667,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 13, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–13218 Filed 5–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6252

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6252, Installment Sale Income.

DATES: Written comments should be received on or before July 21, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Installment Sale Income.

OMB Number: 1545–0228.

Form Number: 6252.

Abstract: Internal Revenue Code section 453 provides that if real or personal property is disposed of at a gain and at least one payment is to be received in a tax year after the year of sale, the income is to be reported in installments, as payment is received. Form 6252 provides for the computation of the income to be reported in the year of sale and in years after the year of sale. It also provides for the computation of installment sales between certain related parties required by Code section 453(e).

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and farms.

Estimated Number of Respondents: 782,848.

Estimated Time Per Respondent: 3hr., 21 min.

Estimated Total Annual Burden Hours: 2,622,541.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information

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

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 13, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–13219 Filed 5–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4137

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4137, Social Security and Medicare Tax on Unreported Tip Income.

DATES: Written comments should be received on or before July 21, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Social Security and Medicare Tax on Unreported Tip Income.

OMB Number: 1545–0059.

Form Number: 4137.

Abstract: Form 4137 is used to figure the social security and Medicare tax owed on tips received by an employee but not reported to his or her employer, including any allocated tips shown on Form W–2 that must be reported as income. Form 4137 is also used to compute the social security and Medicare tips to be credited to the employee's social security record.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 76,000.

Estimated Time Per Respondent: 1 hr., 11 min.

Estimated Total Annual Burden Hours: 89,680.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 13, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–13220 Filed 5–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8611

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8611, Recapture of Low-Income Housing Credit.

DATES: Written comments should be received on or before July 21, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Recapture of Low-Income Housing Credit.

OMB Number: 1545–1035.

Form Number: 8611.

Abstract: IRC section 42 permits owners of residential rental projects

providing low-income housing to claim a credit against their income tax. If the property is disposed of or it fails to meet certain requirements over a 15-year compliance period and a bond is not posted, the owner must recapture on Form 8611 part of the credit(s) taken in prior years.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 8 hr., 30 min.

Estimated Total Annual Burden Hours: 10,207.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the 3 administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 14, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–13221 Filed 5–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–13; OTS Nos. H–2267 and 00485]

CF Mutual Holdings, Carrollton, Georgia; Approval of Conversion Application

Notice is hereby given that on May 12, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of CF Mutual Holdings, Carrollton, Georgia, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Southeast Regional Office, Office of Thrift Supervision, 1475 Peachtree Street, NE., Atlanta, Georgia 30309.

Dated: May 15, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–13169 Filed 5–19–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–15; OTS No. 2857]

Goshen Savings Bank, Goshen, New York; Approval of Conversion Application

Notice is hereby given that on May 14, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Goshen Savings Bank, Goshen, New York, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Place, 18th Floor, Jersey City, New Jersey 07302.

Dated: May 15, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–13171 Filed 5–19–97; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–14; OTS Nos. H–2858 and 04471]

Montgomery Mutual Holding Company, Crawfordsville, Indiana; Approval of Conversion Application

Notice is hereby given that on May 13, 1997, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Montgomery Mutual Holding Company, Crawfordsville, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: May 15, 1997.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 97–13170 Filed 5–19–97; 8:45 am]

BILLING CODE 6720–01–M

Corrections

Federal Register
Vol. 62, No. 97
Tuesday, May 20, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMINSION

17 CFR Parts 1, 15, 16, and 17

Recordkeeping; Reports by Futures Commission Merchants, Clearing Members, Foreign Brokers, and Large Traders

Correction

In rule document 97–11396, beginning on page 24026 in the issue of Friday May 2, 1997, make the followinmg corrections:

1. On page 24031, in the second column, in amendatory instruction 4., in the second line, "(1)" should read "(l)".

§ 15.00 [Corrected]

2. On page 24031, in the third column, in § 15.00, the paragraph designation "(1)" should read "(l)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 108, 110, 111, 112, 113, and 161

[CGD 94-108]

RIN 2115-AF24

Electrical Engineering Requirments for Merchant Vessels

Correction

In rule document 97–11230 beginning on page 23894 in the issue of Thursday, May 1, 1997, make the following correction:

§ 110.15-1 [Corrected]

1. On page 23907, in the first column, in §110.15-1, in the fourth line "EMA" should read "NEMA".

§ 111.60-11 [Corrected]]

2. On page 23908, in the third column, in § 111.60-11 paragraph (c), in the third line, "IL-W-76D" should read "MIL-W-76D;".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96-AWP-21]

Establishment of Class E Airspace; Truckee, CA

Correction

In rule document 97–9577 appearing on page 18038 in the issue of Monday, April 14, 1997 make the following correction:

§71.1 [Corrected]

In the third column, in §71.1, "**AWP CA 3% Truckee, CA [New]**" should read "**AWP CA E5 Truckee, CA [New]**".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96-AGL-38]

Modification of Class E Airspace; Mineral Point, WI, Iowa County Airport

Correction

In rule document 97–9131 appearing on page 17057 in the issue of Wednesday, April 9, 1997 make the following correction:

§ 71.1 [Corrected]

In the second column, in §71.1, in the last line "long. 90°13′55″W" should read "long. 90°13′35″W".

BILLING CODE 1505-01-D

federal register

Tuesday
May 20, 1997

Part II

Department of Commerce

National Telecommunications and Information Administration

Public Telecommunications Facilities Program (PTFP); Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 960205021–7110–04]

RIN 0660–ZA01

Public Telecommunications Facilities Program (PTFP)

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of applications received.

SUMMARY: The National Telecommunications and Information Administration (NTIA) previously announced the solicitation of grant applications for the Public Telecommunications Facilities Program (PTFP) for planning and construction grants for public telecommunications facilities. This notice announces the list of applications received and notifies any interested party that it may file comments with the Agency supporting or opposing an application.

FOR FURTHER INFORMATION CONTACT: Dennis Connors, Director, Public Telecommunications Facilities Program, telephone: (202) 482–5802; fax: (202) 482–2156. Information about the PTFP can also be obtained electronically via Internet (send inquiries to http://www.ntia.doc.gov).

SUPPLEMENTARY INFORMATION: By **Federal Register** notice dated November 8, 1996, the NTIA, within the Department of Commerce, announced that the program was soliciting grant applications, and that the closing date for receipt of applications was 5 p.m. EST, February 12, 1997 [1].

In all, the program received 220 applications from 44 states, the District of Columbia, the Commonwealth of Puerto Rico and American Samoa. The total amount of funds requested by the applicants is $49.9 million.

Notice is hereby given that the PTFP received applications from the following organizations. The list includes all applications received. Identification of any application only indicates its receipt. It does *not* indicate that it has been accepted for review, has been determined to be eligible for funding, or that an application will receive an award.

Any interested party may file comments with the Agency supporting or opposing an application and setting forth the grounds for support or opposition. PTFP will forward a copy of any opposing comments to the applicant. Comments must be sent to PTFP at the following address: NTIA/PTFP, Room 4625, 1401 Constitution Ave., N.W., Washington, D.C. 20230.

The Agency will incorporate all comments from the public and any replies from the applicant in the applicant's official file.

[1] 61 FR 57982 (Nov. 8, 1996).

Alaska

File No. 97001CRB Silakkuagvik Communications, Inc., KBRW–AM Post Office Box 109 1696 Okpik Street Barrow, AK 99723. Contact: Mr. Donovan J. Rinker, VP & General Manager. Funds Requested: $78,262. Total Project Cost: $104,500. On an emergency basis, to replace a transmitter and a transmitter-return-link and to purchase an automated fire suppression system for public radio station KBRW–AM, which provides the only noncommercial radio signal to the residents of the North Slope of Alaska. The station's transmission system was completely destroyed by fire on October 16, 1996.

File No. 97037CRB Kodiak Public Broadcasting Corp., KMXT–FM 620 Egan Way Kodiak, AK 99615. Contact: Mr. Dave Perkins, General Manager. Funds Requested: $17,605. Total Project Cost: $35,210. To improve the signal quality of translators operated by KMXT–FM, operating on 100.1 FM, in Kodiak, by adding a satellite receive capability at each of the five sites and a C-band uplink in Kodiak. The satellite delivery would replace a 3.5 KHz phone line which currently feeds the translators. The translators serve the communities of Old Harbor, Ahkiok, Larsen Bay, Karluk and Port Lions, all on Kodiak Island.

File No. 97057CTB University of Alaska, KUAC–TV 201 Theatre Building 312 Tanana Drive Fairbanks, AK 99775–5620. Contact: Mr. Jerry Brigham, General Manager. Funds Requested: $163,682. Total Project Cost: $244,302. To improve the facilities of public television station KUAC–TV, operating on Ch. 9 in Fairbanks, by purchasing two local insertion servers and upgrade a video router. The equipment will help localize PSA and other material on Alaska One, the public television service distributed statewide via satellite to other public television stations in the state.

File No. 97141CTB Alaska Public Telecomm., Inc., Station KAKM–TV 3877 University Drive Anchorage, AK 99508. Contact: Ms. Susan S. Reed, President/General Manager. Funds Requested: $91,550. Total Project Cost: $183,100. To purchase a satellite television receive-only earth station for station KAKM–TV, which operates on Ch. 7, Anchorage, AK, and provides the only public television service to over 300,000 residents of south central Alaska. The purchase of a new earth station has been necessitated by the failure of the Telstar 401 satellite and the subsequent move of Public Broadcasting Service programming distribution to the Telstar 402R satellite. Because of topographical considerations, the latter satellite cannot be viewed from the site of Station's KAKM–TV's present earth station. Thus, a new receive site must be installed away from the station's studio location in order for full PBS service to be restored.

File No. 97205CRB Kotzebue Broadcasting Inc., 396 Lagoon Drive P.O. Box 78 Kotzebue, AK 99752. Contact: Ms. Suzy Erlich, General Manager. Funds Requested: $123,750. Total Project Cost: $165,000. To improve the facilities of public radio station KOTZ–AM, operating on 720 KHz in Kotzebue by replacing obsolete production equipment. The project would provide digital audio storage and editing equipment, an audio console, digital cart machines and audio processing, monitoring and test equipment. The station serves 8,500 residents of northwest Alaska.

Alabama

File No. 97089CTB Alabama Educational Television Comm, Alabama Public Television 2112 11th Avenue South Suite 400 Birmingham, AL 35205–2884. Contact: Mr. Philip Hutcheson, Deputy Director/CFO. Funds Requested: $192,903. Total Project Cost: $385,806. To improve the Alabama Public Television Network, serving approximately 4,000,000 people throughout the state, by replacing 30-year old microwave antennas at seven sites of the statewide interconnection system, the 30-year old lighting system at the network's production studio in Montgomery, and acquiring a video server for the Network Operations Center in Birmingham, AL.

Arkansas

File No. 97129CRB Arkansas State University, KASU–FM 104 Cooley Street P.O. Box 2160 State University, AR 72467. Contact: Mr. William McGinley, Station Manager. Funds Requested: $177,852. Total Project Cost: $237,136. To activate a new public radio station on 88.7 MHZ in Mountain Home, AZ. Station will repeat the signal of KASU–FM, State University, but will also have some local origination capability. New station will provide first service to 107,422 and additional service to about 23,965 people.

File No. 97159CTB Arkansas Educational TV Commission, 350 South Donaghey Conway, AR 72032. Contact: Ms. Susan Howarth, Executive Director. Funds Requested: $524,928. Total Project Cost: $1,049,857. To improve the state's public television network by establishing a new production and distance learning studio in Little Rock, augmenting the origination equipment in Studio B, acquiring equipment to convert an uplink truck to a basic remote production truck, and replacing an old character generator in the main production/editing control room (Studio A). The network serves about 2.35 million people.

File No. 97161CTN Arkansas Educational TV Commission, 350 South Donaghey Conway, AR 72032. Contact: Ms. Susan Howarth, Executive Director. Funds Requested: $525,771. Total Project Cost: $1,051,543. To expand the applicant's statewide distance learning satellite delivery system by conversion to digital transmission and the establishment of 25 community electronic learning centers throughout the state of Arkansas.

American Samoa

File No. 97023CTB American Samoa Government, Office of Public Information KVZK–TV Pago Pago, AS 96799. Contact: Mrs. Vaoita Savali, Acting Director. Funds Requested: $122,095. Total Project Cost: $122,095. To improve the facilities of public television station KVZK–TV, operating on Ch. 2 which serves the 57,000 residents of American Samoa. The application would replace an obsolete routing switcher, establish means for stereo monitoring and acquire needed test equipment.

File No. 97137ICTN Government of American Samoa, AS PEACESAT Alliance (ASPETA) Office of the Governor Pago Pago, AS 96799. Contact: Mr. Frank Pritchard, Federal Programs Officer. Funds Requested: $389,800. Total Project Cost: $389,800. To activate a new service for distance education by purchasing a digital satellite system to serve American Samoa. The system will provide compressed digital video and be affiliated with the Pan-Pacific Educational and Communications Experiments by Satellite (PEACESAT) program headquartered in Hawaii.

Arizona

File No. 97016CTB Arizona State University, KAET Channel 8 Stauffer Hall, B Wing, Tenth St. P.O. Box 871405 Tempe, AZ 85287–1405. Contact: Mr. Ben Fasano, Sponsored Projects Officer. Funds Requested: $102,131. Total Project Cost: $204,263. To improve public television station KAET–TV, Ch. 8, in Tempe by replacing old origination equipment and in so doing begin the conversion to digital television. Equipment being requested includes a video file server, 7 audio spot record/playback machines, an audio/video routing switcher and a digital signal analyzer. KAET–TV provides service to about 2.97 million people.

File No. 97149CRB The Hopi Foundation, Highway 264 Marker 367–9 P.O. Box 705 Hotevilla, AZ 86030. Contact: Ms. Barbara Poley, Executive Director. Funds Requested: $310,658. Total Project Cost: $414,211. To activate a new public radio station on 89.1 MHZ in Hotevilla. Project will serve about 10,000 people on or near the Hopi Reservation.

File No. 97163ICTN Northern Arizona University, Educational Systems Development Comm. Bldg #16/Room 123 Corner Osborne & Tormey Ave. Flagstaff, AZ 86011. Contact: Mr. Edward G. Groenhout, Interim VP/Instit. Advancement. Funds Requested: $878,198. Total Project Cost: $1,351,075. To extend the duplex microwave-based, two-way interactive distance learning network of Northern Arizona University—called NAUNet—to Chinle Unified School District, Ganado School District, Red Mesa School District, and to the Hualapai Library at Peach Springs; all these sites are in Arizona. All the locations will receive video classroom and production control equipment. Chinle Unified School District will also receive hub equipment. Chinle, Ganado, and Red Mesa are communities on the Navajo Indian Reservation; Peach Springs is on the Hualapai Indian Reservation.

California

File No. 97003CTB Community Television of Southern CA, KCET (TV) 4401 Sunset Boulevard Los Angeles, CA 90027. Contact: Mr. Donald G. Youpa, Executive Vice President. Funds Requested: $753,930. Total Project Cost: $1,507,861. To improve and upgrade the facilities of KCET–TV, Channel 28 in Los Angeles (CA), serving an audience of over 18 million people, by replacing aging and obsolete equipment including the routing system, signal converters, master control switcher and machine control system.

File No. 97038CRB Humboldt State University, KHSU Radio Humboldt State University Arcata, CA 95521. Contact: Ms. Jill Paydon, General Manager. Funds Requested: $78,675. Total Project Cost: $104,900. To extend the signal of KHSU–FM, 90.5 MHZ in Arcata, CA, by constructing a satellite studio and a repeater station in Crescent City, operating on 91.9 MHZ, that will providing the first public radio service with local origination capabilities to about 13,000 residents of Del Norte County, California.

File No. 97053ICTN Shasta College, Far Northern CA Com Col Consort. 11555 Old Oregon Trail P.O. Box 496006 Redding, CA 96049–6006. Contact: Dr. James Poulsen, Dir/Off. of Ext'd Educ. & T/C. Funds Requested: $112,500. Total Project Cost: $225,000. To purchase nine codec teleconferencing systems to expand the network of the Far Northern California Community College Distance Education Consortium. The Consortium comprises Shasta College, Butte College, the College of the Siskiyous, and Lassen College. The teleconferencing systems would be placed at The Shasta Regional Occupational Program High School, South Redding; the Shasta Community Health Center, Redding; the Hill Country Community Health Center, Round Mountain; libraries in the communities of Oroville and Orland; Siskiyou Union High School; Yreka Union High School; Trinity High School, Weaverville; and Fall River High School, Burney.

File No. 97066CTB N. California Educ'l TV Assoc., Inc, Broadcast/Engineering 603 N. Market Street Redding, CA 96003. Contact: Mr. Michael Lampella, Operations Manager. Funds Requested: $784,594. Total Project Cost: $1,046,126. To improve the facilities of KIXE–TV, Channel 9 in Redding, by replacing obsolete and unreliable analog origination and test equipment with state-of-the-art digital equipment including studio cameras, videotape recorders, video switcher, video effects unit, character generator, still store system, file server and miscellaneous ancillary equipment.

File No. 97074CRB Monterey Bay Public Brdcstg Fdn., KAZU–FM 176 Forest Avenue Pacific Grove, CA 93950. Contact: Mr. Peter Williams, Station Manager. Funds Requested: $35,062. Total Project Cost: $46,749. To augment and enhance the facilities of KAZU–FM, operating on 90.3 MHZ in Pacific Grove (CA) by establishing a remote recording mobile unit equipped with state-of-the-art, digital equipment to meet national broadcast standards.

File No. 97078ICTB Kern Educational T/C Consortium, 1300 17th Street/City Centre Bakersfield, CA 93301–4533. Contact: Mr. Larry R. Ciecalone, Director of Broadcasting. Funds Requested: $1,118,429. Total Project Cost: $1,491,239. To establish a noncommercial television station in Bakersfield, CA, which would bring a first public TV signal with local origination capability to approximately

995,000 residents of that area. Of these, approximately 195,000 residents would receive the new station's signal as a "first public TV signal". In addition to some nationally-distributed public television programming, the station would transmit a vast amount of instructional programming from the Kern Educational Telecommunications Consortium, which has its headquarters in Bakersfield. The new station will also incorporate into its schedule programming targeted towards the Hispanic-American population, which constitutes approximately 30% of the total population of the station's proposed service area.

File No. 97081ICTN Monterey County Office of Education, Instruct'l Resources & Technology. 901 Blanco Circle Salinas, CA 93901. Contact: Mr. Michael Mellon, Dir/Instruc. Resources & Tech. Funds Requested: $684,313. Total Project Cost: $1,368,626. To establish a distance learning system that will serve over 138 schools, plus residences and businesses, in Monterey, San Benito, Santa Clara, and Santa Cruz Counties, CA. The system will be based on two channels of ITFS, and extended by microwave and low-power television stations.

File No. 97088CRB Rural California Broadcasting Corp., KRCB–FM 5850 Labath Avenue Rohnert Park, CA 94928. Contact: Ms. Nancy Dobbs, Chief Executive Officer. Funds Requested: $54,275. Total Project Cost: $72,367. To improve and upgrade the origination facilities of KRCB–FM, 91.1 MHZ in Rohnert Park (CA) by replacing old and unreliable studio equipment including the audio console, the modulation monitor, the storage delivery system, DAT recorders, and microphones.

File No. 97101CTB KTEH Foundation, 1585 Schallenberger Road San Jose, CA 95131. Contact: Mr. Gary S. Martinez, Grants Associate. Funds Requested: $719,039. Total Project Cost: $1,438,078. To upgrade and improve the facilities of KTEH–TV, Channel 54 in San Jose by replacing the 22-year-old transmitter, the transmission line, the antenna and the routing and master control switchers.

File No. 97107ICTN Kern Educational T/C Consortium, 1300 17th Street/City Centre Bakersfield, CA 93301–4533. Contact: Dr. Daniel Darnell, President/ Cerro Coso Com. Coll. Funds Requested: $796,318. Total Project Cost: $2,132,018. To extend the Kern County distance learning microwave system into rural Inyo and Mono Counties in order to bring the first such services to nearly 30,000 isolated rural residents, and to provide interactive educational opportunities as well as Internet access to educational institutions at all levels—K–12, community college, and university.

File No. 97113IPTN California State Univ./Stanislaus, Associate VP Academ. Affairs Ofc 801 West Monte Vista Avenue Turlock, CA 95382. Contact: Ms. Maithreyi Manoharan, Associate VP Info Technology. Funds Requested: $54,648. Total Project Cost: $54,648. To develop a telecommunications plan for the potential use of appropriate technologies in a distance learning network among California State University-Stanislaus, public schools, community colleges and service agencies in an isolated and economically-disadvantaged area in central California that includes 6 counties and would focus particularly on Merced County.

File No. 97118ICTN Oxnard School District, Prog. for Instruct'l Excellence 1051 South A Street Oxnard, CA 93030. Contact: Mr. Richard Duarte, Assistant Superintendent. Funds Requested: $42,927. Total Project Cost: $85,855. To purchase production equipment that would allow the Oxnard, CA, school district to originate Spanish-language programming and caption-based educational programming for residents of the City of Oxnard and surrounding areas. The programming will be distributed via cable television channels. The programming will target children in grades K–8.

File No. 97125CRB Nevada City Community Broadcast Grp, 401 Spring Street Nevada City, CA 95959. Contact: Mr. Brian Terhorst, General Manager. Funds Requested: $50,491. Total Project Cost: $100,982. To improve and upgrade the signal of KVMR–FM, 89.5 MHZ in Nevada City (CA) by replacing the old and failure prone transmitter, antenna, feedline and tower. KVMR will also purchase a stereo generator for the station's broadcast studio and install a satellite downlink facility to bring the first nationally distributed programming to the community.

File No. 97127CTB Los Angeles Unified School District, KLCS–TV 1061 West Temple Street Los Angeles, CA 90012. Contact: Mr. Tom Mossman, Station Manager. Funds Requested: $559,370. Total Project Cost: $1,118,740. To improve the signal and enhance the transmission capabilities of KLCS–TV, Channel 58 in Los Angeles (CA) by replacing the old and failure prone 24-year-old transmitter and by establishing a fiber optic link with the ETN facilities at the Los Angeles County Office of Education.

File No. 97130 Fullerton Interfaith Productions, 409 Pebble Beach Place Fullerton, CA 92835. Contact: Mr. Ed Lillibridge, Owner. Funds Requested: $100,000. Total Project Cost: $100,000. Production oriented project.

File No. 97133CTB Bet-Nahrain, Inc., KBSV–TV23 P.O. Box 4116 3119 South Central Ave Modesto, CA 95307. Contact: Dr. Sargon Dadesho, Director of Mass Media. Funds Requested: $95,000. Total Project Cost: $128,000. To improve the facilities of KBSV–TV, Channel 23 in Ceres (CA) by replacing old and unreliable basic equipment including the master control switcher, four VTRs and two cameras.

File No. 97146CTB KQED, Inc., KQED–TV 2601 Mariposa Street San Francisco, CA 94110. Contact: Ms. Judy Holme, Associate Director. Funds Requested: $379,651. Total Project Cost: $759,302. To upgrade and improve the facilities of KQED–TV, Channel 9 in San Francisco by replacing old and unreliable equipment including 11 to 18 year old production videotape systems and the production audio console.

File No. 97151CRB Santa Monica Community College Dist, KCRW 1900 Pico Boulevard Santa Monica, CA 90405–1628. Contact: Ms. Ruth Seymour, General Manager. Funds Requested: $221,293. Total Project Cost: $295,058. To expand the services of KCRW–FM, operating on 88.1 MHZ in Santa Monica, by constructing a repeater station in Mojave, operating on 88.7 MHZ, which will provide first public radio services to approximately 83,000 residents.

File No. 97152CTB California Community Television Net, KCAH (TV) 559 E. Alisal Street, #106 Salinas, CA 93905. Contact: Ms. Arlene Kimata, Corporate Secretary. Funds Requested: $323,497. Total Project Cost: $431,330. To improve and expand the signal of KCAH–TV, Channel 25 in Salinas, by replacing the transmitter and antenna. The stronger signal will reach new areas in the Central Coastal California region and the South Bay area, providing first public television service to approximately 198,000 residents of Santa Clara, San Benito, Monterey and Santa Cruz counties.

File No. 97190CRB San Diego State University Fdn., KPBS–FM 5200 Campanile Drive San Diego, CA 92182. Contact: Ms. Susan Holloway, Director, Admin. Services. Funds Requested: $230,114. Total Project Cost: $306,819. To expand and improve the signal of KPBS, operating on 89.5 MHZ in San Diego (CA) by relocating and replacing the aging transmission chain with digital state-of-the-art equipment. This upgrade will improve service to KPBS' current listeners and will provide first public radio service to about 168,000 residents of the greater San Diego area.

File No. 97197ICTN San Diego Co. Superint. of Schools, 6401 Linda Vista Road San Diego, CA 92111. Contact: Dr. Bruce Braciszewski, Director ITV/ Communications. Funds Requested: $133,429. Total Project Cost: $266,857. To purchase a video matrix switcher for the San Diego County Office of Education that will allow the Office to expand the number and type of courses that it offers to teachers and students in San Diego County, CA. The courses are transmitted via ITFS.

File No. 97200ICTN California State Un. Fresno Fdn., 4910 N. Chestnut Avenue Fresno, CA 93726. Contact: Dr. Daniel Griffin, Assoc. Dir. Grants Research. Funds Requested: $873,020. Total Project Cost: $1,754,762. To extend the Valley Educational Network (VEN) to 12 additional school sites. VEN is an integrated voice, data and video network providing college and K–12 distance education programming to educational institutions in Madera, Fresno, Kings and Tulare Counties.

Colorado

File No. 97035CTB Rocky Mountain Public Broadcasting, 1089 Bannock Street Denver, CO 80204. Contact: Mr. James Morgese, General Manager. Funds Requested: $389,039. Total Project Cost: $518,718. To interconnect the facilities of public television stations KRMA–TV, Ch. 6, in Denver and KTSC–TV, Ch. 8, in Pueblo by installing a two-way microwave interconnection. KRMA–TV will also acquire computer automation equipment to provide a distinct program feed to Pueblo. Two stations cover the entire state of Colorado, approximately 3.9 million people.

File No. 97044CRB North Fork Valley Public Radio Inc, KVNF–FM 213 Grand Avenue P.O. Box 1350 Paonia, CO 81428. Contact: Ms. Kristy McFarland, Station Manager. Funds Requested: $92,511. Total Project Cost: $123,348. To extend the signal of public radio station KVNF–FM, 90.9 MHZ, in Paonia by activating a new repeater station in Montrose on 89.1 MHZ. Station will provide first public radio service to about 9,868 people and an additional service to about 22,000 more.

File No. 97064CTB Rocky Mountain Public Broadcasting, 1089 Bannock Street Denver, CO 80204. Contact: Mr. James Morgese, General Manager. Funds Requested: $206,500. Total Project Cost: $413,000. To improve public television station KRMA–TV, Ch. 6, in Denver, by replacing 10 videotape recorders with new digital equipment. Current equipment was purchased between 1983 and 1994. KRMA–TV serves approximately 3.9 million people.

File No. 97071CRB Crested Butte Mountain Educational, KBUT–FM P.O. Box 308 801 Butte Avenue Crested Butte, CO 81224. Contact: Ms. Jackie Scalzo, General Manager. Funds Requested: $180,840. Total Project Cost: $241,120. To improve and expand the coverage area of public radio station KBUT–FM, 90.3 MHZ, in Crested Butte by relocating the transmitter site to Sunlight Ridge which is 800 ft. higher than the current location. Project will replace the 11-year-old transmission system and old, worn out origination and interconnection equipment. KBUT–FM currently serves about 10,401 people and relocation will add about 926 more.

File No. 97121CRB Equal Representation of Media Advoc, KRZA–FM 528 9th Street Alamosa, CO 81101. Contact: Ms. Kim Allison, Station Manager. Funds Requested: $10,968. Total Project Cost: $14,625. To improve public radio station KRZA–FM, 88.7 MHZ, in Alamosa by re-aligning the existing antenna and replacing old, worn-out origination equipment with a new telephone hybrid interconnect, cassette players, speakers, CD players and Mini-disk players. KRZA–FM, a community radio station which has been on the air since 1986, provides service to about 75,000 people.

File No. 97124CTB Front Range Educational Media Corp., KBDI–TV 2900 Welton St., First Floor Denver, CO 80205. Contact: Mr. Richard James, Grants Manager. Funds Requested: $181,209. Total Project Cost: $317,909. To improve and expand public television station KBDI–TV, Ch. 12, in Denver by acquiring a new master control router, a master control switcher, replacing the 100 watt translator that serves Colorado Springs with a 1 kilowatt unit, and acquiring a telemetry system. KBDI–TV serves about 2.1 million people and will add an additional service to about 400,000 more.

File No. 97147ICTN National Technological University, 700 Centre Avenue Ft. Collins, CO 80526. Contact: Dr. Lionel Baldwin, President. Funds Requested: $294,170. Total Project Cost: $392,230. To activate an interactive learning environment for individuals at home which combines Internet, personal computer and satellite delivered compressed digital video technology.

File No. 97201CRB KUTE Incorporated, KSUT–FM Four Corners Public Radio P.O. Box 737 123 Capote Ignacio, CO 81137. Contact: Mr. Carlos Sena, General Manager. Funds Requested: $55,989. Total Project Cost: $74,655. To improve the facilities of public radio station KSUT–FM, 91.3 MHZ, Ignacio, by acquiring local origination equipment for a new studio which will be fully dedicated to the affairs, education and cultural preservation of the Southern Ute Indian Tribe. In addition, project will acquire a studio-to-transmitter link (STL) to permit a new, second station, 90.1 MHZ, located on Missionary Ridge, to be programmed with a different public radio signal. Programming for both stations will originate from the KSUT–FM studios.

Connecticut

File No. 97195CTB Simsbury Community Television, 754 Hopmeadow Street P.O. Box 767 Simsbury, CT 06070. Contact: Mrs. Elise Sirman, President. Funds Requested: $10,349. Total Project Cost: $13,799. To upgrade the production capabilities of Simsbury Community Television, which transmits its community access programming over a dedicated channel of the Simsbury cable television system.

File No. 97218CTN West Hartford Community TV, Inc., WHC–TV 50 South Main Street West Hartford, CT 06107. Contact: Ms. Cheryl Fine, Executive Director. Funds Requested: $250,000. Total Project Cost: $312,500. To establish video production studios at Hall High School and at Conard High School, both in the City of West Hartford, CT. The studios would originate programming to be transmitted over two dedicated community access channels of the city's cable television system.

District of Columbia

File No. 97144CTB Howard University, WHMM 2222 Fourth Street NW Washington, DC 20059. Contact: Mr. M. J. Watkins, General Manager. Funds Requested: $425,549. Total Project Cost: $851,098. To improve public television station WHMM–TV, operating on Channel 32 in Washington, DC, by replacing the routing switcher, master sync and timing system with distribution amplifiers, TV demodulator, video processing amplifiers, and a non-linear editing system. The project includes upgrading by acquiring the Secondary Audio Program and Auxiliary Audio Program Transmission System, virtual recorder system, broadcast color monitors, and test equipment.

File No. 97150ICTN Soundprint Media Center Inc., 4000 Brandywine Street NW Suite 620 Washington, DC 20016. Contact: Ms. Moira Rankin, President. Funds Requested: $298,554. Total Project Cost: $510,348. To expand the services provided by the "Education

Connection," a distance learning project which is intended to provide at-risk schools (K–12) with multimedia, interactive, Internet and satellite-delivered video conferencing capability. The project will provide Education Connection programming to 58 additional schools. The Education Connection is a partnership of the applicant and public television stations (KCET–TV Los Angeles, Louisiana Public Broadcasting, Mississippi Educational TV, WHYY–TV Wilmington, and WHRO–TV Norfolk). The project includes a satellite uplink and video conferencing studio at Soundprint, and satellite receive downlinks, computers and ITFS equipment at school sites.

File No. 97171IPTN Assoc. of Jesuit Colleges & Univ., 1 Dupont Circle Suite 405 Washington, DC 20036–1110. Contact: Dr. William Husson, Dean of Professional Studies. Funds Requested: $58,410. Total Project Cost: $147,706. To plan for a telecommunications system that will establish an interconnected network of the 28 colleges and universities in the Association of Jesuit Colleges and Universities, for a nationwide distance learning and training service among these colleges/universities and each of their surrounding communities.

Florida

File No. 97010CRB University of Florida, WUFT–FM/WJUF–FM 2208 Weimer Hall University Of Florida Gainesville, FL 32611. Contact: Mr. Henri Pensis, Station Manager. Funds Requested: $26,753. Total Project Cost: $53,506. To install automation equipment at WUFT–FM, operating on 89.1 MHZ in Gainesville, FL, to maintain 24-hour-a-day programming in a cost-effective manner. WUFT–FM currently serves approximately 1,700,000 people in the Gainesville area.

File No. 97018CRB Florida Institute of Technology, WFIT–FM 150 W. University Blvd Melbourne, FL 32901. Contact: Mr. David Kershaw, General Manager. Funds Requested: $27,614. Total Project Cost: $36,819. To improve its facilities and provide first public radio service to approximately 13,000 people, WFIT–FM, operating on 89.5 MHZ in Melbourne, FL, will raise its antenna height, increase its power from 2,350 Watts to 8,000 Watts, and install equipment for remote transmitter control.

File No. 97030CRB School Board of Dade County, WLRN/FM Radio 172 NE 15th Street Miami, FL 33132. Contact: Mrs. Laurel Long, Coordinator, Finance/Admin. Funds Requested: $54,986. Total Project Cost: $109,973. WLRN–FM, 91.3 MHZ, serving approximately 3,900,000 people in an area that includes Miami, Fort Lauderdale, Palm Beach and the Florida Keys, will replace its outdated and unreliable transmission system.

File No. 97061CTB South Florida Public Telecomm., WXEL–TV 3401 S. Congress Ave. Boynton Beach, FL 33426. Contact: Mr. Philip Dicomo, V. P., Ext. Affairs. Funds Requested: $185,269. Total Project Cost: $370,538. To improve public television station WXEL–TV, Channel 42 in Boynton Beach, FL, serving approximately 4,400,000 people, by replacing obsolete three-quarter inch and one-inch video recorders with digital video recorders and a video server system for a more efficient on-air recording and playback operation.

File No. 97075CRB WJCT, Inc., WJCT–FM 100 Festival Park Avenue Jacksonville, FL 32202. Contact: Mr. William Dresser, President and General Mgr. Funds Requested: $92,850. Total Project Cost: $185,701. To improve public radio station WJCT–FM, 89.9 MHZ in Jacksonville, FL, by replacing outdated and unreliable 25-to-30-year old reel-to-reel, audio cartridge, and cassette equipment with a digital audio storage system, replacing the transmitter control link, and acquiring the capability of ISDN connectivity for effective remote production and interconnection to other NPR stations. WJCT–FM provides public radio service to approximately 1,600,000 people in the Jacksonville area.

File No. 97108CRB Nathan B. Stubblefield Foundation, WMNF–FM 1210 East Martin Luther King Blvd Tampa, FL 33603. Contact: Mr. Richard Eiswerth, Station Manager. Funds Requested: $23,600. Total Project Cost: $47,200. To improve WMNF–FM, operating on 88.5 MHZ , and serving approximately 1,300,000 people in the Tampa, FL area, by replacing outdated and unreliable master control, studio, and studio-to-transmitter link equipment.

File No. 97119CTB University of Florida, WUFT–TV Weimer Hall University Of Florida Gainesville, FL 32611. Contact: Mr. Richard Lehner, General Manager. Funds Requested: $164,680. Total Project Cost: $329,360. To improve public television station WUFT–TV, Channel 5 in Gainesville, FL, serving approximately 2,000,000 people, by replacing 13-year old one-inch videotape machines with digital video recorders-editors for master control recording, editing, and playback operations.

File No. 97132ICTN Okaloosa-Walton Community College, 100 College Boulevard Niceville, FL 32578. Contact: Mr. Glenn Tripplett, Dir./Learning Resources Ctr. Funds Requested: $118,935. Total Project Cost: $158,580. To establish three video classrooms for the Okaloosa-Walton Distance Learning Consortium of Northwest Florida, which will be interconnected by Instructional Television Fixed Service (ITFS). The classrooms will be located at the Niceville Campus of Okaloosa-Walton Community College, the Instructional Technology Center of the Walton County School District, and Shalimar Elementary School, which is part of the Okaloosa County School District.

File No. 97138CTB Brevard Community College, WBCC–TV 1519 Clearlake Road Cocoa, FL 32922. Contact: Mr. Joe Williams, General Manager, WBCC. Funds Requested: $715,382. Total Project Cost: $1,480,971. WBCC–TV, Channel 68 in Cocoa, FL, serving approximately 1,000,000 people, will replace a 10-year old obsolete transmitter with a digital transmitter, and will acquire a mobile digital production system as an interim control room and also as a remote production unit.

File No. 97153CTB University of South Florida, Division of Public Broadcasting 4202 Fowler Avenue, Svc 0001 Tampa, FL 33620. Contact: Mr. William Buxton, Station Manager. Funds Requested: $41,812. Total Project Cost: $83,624. To replace its outdated and unreliable optical disc units, WUSF–TV, Channel 16, serving approximately 3,500,000 people in the Tampa, FL area, will install a video spot player for on-air station break operations.

File No. 97173CTB Florida State University, WFSU–TV 1600 Red Barber Plaza Tallahassee, FL 32310. Contact: Mrs. Donna Landrum, Business Manager. Funds Requested: $105,525. Total Project Cost: $211,050. To improve WFSU–TV in Tallahassee and WFSG–TV in Panama City, FL, serving approximately 600,000 people, by replacing a 16-year old analog routing switcher with a digital/analog routing switcher.

File No. 97175CTB WJCT Inc., WJCT–TV 100 Festival Park Avenue Jacksonville, FL 32202. Contact: Mr. William Dresser, President and General Manager. Funds Requested: $177,541. Total Project Cost: $355,082. To improve public television station WJCT–TV, Channel 7 in Jacksonville, FL, by replacing four, 12-year old one-inch videotape machines for recording, on-air playback, and post-production operations. WJCT–TV provides public television service to approximately

1,600,000 people in the Jacksonville area.

File No. 97196CTB Florida West Coast Public Broadcast, WEDU 1300 North Boulevard Tampa, FL 33607. Contact: Ms. Elsie Garner, Sr. Vice President & COO. Funds Requested: $650,000. Total Project Cost: $1,850,000. To ensure the continuation of public television service to approximately 4,000,000 people in the Tampa Bay area, WEDU–TV, Channel 3 in Tampa, FL, will construct a tower which is critically needed in order to relocate the station's primary transmission facility for uninterrupted service, to prepare for tower requirements in the transition to digital television, and to provide co-location tower space to public radio and television stations WUSF–FM and WUSF–TV.

Hawaii

File No. 97022CTB Hawaii Public Broadcasting Auth., KHET–TV 2350 Dole Street Honolulu, HI 96822. Contact: Mrs. Karen Yamamoto, Administration/Finance Mgr. Funds Requested: $26,750. Total Project Cost: $53,000. To improve the facilities of Hawaii Public Television by replacing three transmitter shelters which house public television translators serving the island of Kauai. The translators serve residents in the vicinity of the communities of Anahola, Kaumakani, and Princeville/Hanalei.

File No. 97024CTB Hawaii Public Broadcasting Auth., KHET–TV 2350 Dole Street Honolulu, HI 96822. Contact: Mrs. Karen Yamamoto, Administrative/Finance Mgr. Funds Requested: $118,000. Total Project Cost: $236,000. To improve the facilities of public television repeater station KMEB–TV, operating on Ch. 10 on the island of Maui, by replacing an obsolete transmitter. KMEB–TV serves 300,000 people on the island of Maui and also feeds a series of translators which serve the Big Island of Hawaii.

Iowa

File No. 97033PTB Iowa Public Broadcasting Board, Iowa Public Television 6450 Corporate Drive Johnston, IA 50131. Contact: Mr. Dennis Malloy, Director, Dev & Community Rel. Funds Requested: $66,500. Total Project Cost: $133,000. To plan for the re-engineering needed to convert the transmissions of Iowa Public Television, Johnston, IA, to advanced television by the year 2003. Iowa PTV serves a population of about 2,841,688.

File No. 97123CTN City of Sioux City, City Hall/Orpheum Electric Bldg. 520 Pierce Street, P.O. Box 447 Sioux City, IA 51102–0447. Contact: Mr. D. Craig Whitehead, City Manager. Funds Requested: $102,495. Total Project Cost: $136,660. To establish a studio production facility that would originate public service programming to be transmitted over a dedicated cable television channel to the residents of the City of Sioux City, IA, and surrounding Woodbury County.

File No. 97184CRB Kirkwood Community College, KCCK 6301 Kirkwood Boulevard SW P.O. Box 2068 Cedar Rapids, IA 52404. Contact: Mr. Steven Carpenter, Station Manager. Funds Requested: $45,420. Total Project Cost: $113,549. To improve the transmission and production capabilities of public radio station KCCK, 88.3 MHZ, Cedar Rapids, IA, by replacing its worn-out and obsolete transmitter, antenna and transmission line and by replacing its audio recording equipment with a hard-disk non-linear storage and editing system.

Idaho

File No. 97076PTB Idaho Public Television, KAID 1455 North Orchard Boise, ID 83706. Contact: Ms. K. Gail Richardson, Grants Officer. Funds Requested: $326,725. Total Project Cost: $326,725. To plan for Idaho Public Television (1) to upgrade the existing statewide analog microwave system to digital; (2) to develop an implementation plan for the conversion of the statewide IPTV system to ATV; (3) to develop a fundraising plan to fund the cost of ATV conversion for the statewide system. Idaho PTV serves a population of about 1,133,034 from five stations across the state.

File No. 97180CRB Idaho State University, College of Business Campus Box 8020 Pocatello, ID 83209–8020. Contact: Dr. Paul Dishman, Assistant Professor. Funds Requested: $168,544. Total Project Cost: $229,437. To activate a public radio station operating at 91.1 MHZ in Pocatello, Idaho. The new station will provide the first public radio signal to about 13,678 persons, of whom approximately 2,100 are Native Americans on the Fort Hall Indian Reservation. It will provide the first local public radio signal to about 58,397 persons. The station will be staffed and operated primarily by students.

File No. 97191CRB Idaho State Board of Education, BSU Radio Network BSU Radio/SMITC 213 1910 University Drive Boise, ID 83725. Contact: Dr. James Paluzzi, General Manager. Funds Requested: $63,772. Total Project Cost: $85,030. To activate a public radio repeater station on 88.5 MHZ in Burley, Idaho, to bring the first public radio signal to about 33,317 persons in the region often referred to as the "Mini-Cassia" region, including the communities of Burley, Paul, Rupert, Heyburn, Declo, Albion, and Malta, Idaho. The new station will carry the programing of the Boise State University radio network.

Illinois

File No. 97029CRB Bradley University, WCBU Radio 1501 West Bradley Avenue Peoria, IL 61625. Contact: Mr. Anthony Dean, Station Manager. Funds Requested: $169,399. Total Project Cost: $225,866. To improve the operation of public radio station WCBU, 89.9 MHZ, Peoria, by replacing obsolete and worn-out items of production equipment, including a hard disk storage system, mixing consoles, CD players, and audio cassette recorders. The station serves a population of about 300,000.

File No. 97045CRB University of Illinois/Springfield, WUIS/WIPA Shepherd Road Building L 130 Springfield, IL 62707. Contact: Mr. David Anderson, General Manager. Funds Requested: $122,230. Total Project Cost: $244,460. To improve the operation of public radio station WUIS, 91.9 MHZ, Springfield, IL, by replacing worn-out and obsolete production equipment, including audio consoles, minidisk recorders/players, CD players, microphones, and telephone hybrids. WUIS and its repeater, WIPA, 89.3 MHZ, Pittsfield, IL, provide service to a combined population of 1,063,912 persons.

File No. 97063CTB Window to the World Communications, WTTW 5400 North St. Louis Avenue Chicago, IL 60625. Contact: Mr. Martin J. McLaughlin, Vice President, Corp Affairs. Funds Requested: $268,340. Total Project Cost: $536,680. To improve the operation of public television station WTTW, Ch. 11, Chicago, IL, by replacing items of production equipment, including video tape recorders, a character generator, and a srtill store. The station serves a population of about 10.5-million people.

File No. 97122CTB University of Illinois, WILL–TV 1110 West Main Street Urbana, IL 61801. Contact: Ms. Danda Tish Beard, Director/Grants & Corp Support. Funds Requested: $160,000. Total Project Cost: $320,000. To improve the operation of public television station WILL–TV, Ch. 12, Urbana, IL, by replacing worn-out and obsolete equipment, including an automation system and a routing switcher. The station serves a population of about 1.3-million persons.

File No. 97215CRB University of Illinois, WILL–AM 1110 West Main Street Urbana, IL 61801. Contact: Ms.

Danda Tish Beard, Director/Grants & Corp Support. Funds Requested: $7,438. Total Project Cost: $14,876. To improve the transmission system of public radio station WILL–AM, 580 KHz, Urbana, IL, by replacing its worn-out and unrepairable directional antenna monitor and the associated remote control units. The station serves a population of about 10,350,456 persons.

Indiana

File No. 97082CTB Metropolitan Indianapolis Pub Bdcst, WFYI TelePlex 1401 North Meridian Street Indianapolis, IN 46202. Contact: Mr. Lloyd Wright, President & General Manager. Funds Requested: $312,500. Total Project Cost: $625,000. To improve the operation of public station WFYI–TV, Ch. 20, Indianapolis, IN, by replacing three worn-out and obsolete cameras and related equipment. The station serves a population of about 2 million persons.

File No. 97085CRB Indiana University, WFIU Radio-TV Center Bloomington, IN 47405–6901. Contact: Dr. Barrie Zimmerman, Director/Opns & Engineering. Funds Requested: $16,041. Total Project Cost: $32,082. To extend the signal of public radio station WFIU, 103.7 MHZ, Bloomington, IN, by activating a translator at 106.1 MHZ in Kokomo, IN, to bring the first public radio signal to about 50,000 persons. WFIU presently serves a population of about 600,000.

File No. 97091CTB Ball State University, WIPB E. F. Ball Building Ball State University Muncie, IN 47306. Contact: Mrs. Alice J. Cheney, General Manager. Funds Requested: $237,988. Total Project Cost: $475,976. To improve the operation of public television station WIPB, Ch. 49, Muncie, IN, by replacing three worn-out and obsolete cameras with their related equipment and by acquiring a local insertion server. The station serves a population of about 980,000.

File No. 97182CTB Michiana Public Broadcasting Corp., WNIT 2300 Charger Boulevard Elkhart, IN 46514. Contact: Ms. Trina Cutter, President/General Manager. Funds Requested: $67,484. Total Project Cost: $89,979. To improve the operation of public television station WNIT, Ch. 34, Elkhart, IN, by replacing worn-out and obsolete video tape recorders with a digital video server. The station serves a population of about 881,600.

File No. 97204CTB Tri-State Public Teleplex, Inc., WNIN–TV 405 Carpenter Street Evansville, IN 47708. Contact: Mr. David L. Dial, President. Funds Requested: $40,521. Total Project Cost: $81,042. To improve the operation of public station WNIN–TV. Ch. 9, Evansville. IN, by replacing worn-out and obsolete items of production equipment, including a character generator, camera pedestals, and a lighting package. The station serves a population of about 750,000 persons.

Kansas

File No. 97013CTB Washburn University of Topeka, KTWU–TV 1700 S.W. College Avenue Topeka, KS 66621. Contact: Mr. Robert Fidler, Director of Operations. Funds Requested: $415,174. Total Project Cost: $830,349. To improve public television station KTWU–TV, Ch. 11, Topeka by replacing a 19 year old television transmitter, transmitter line and associated equipment. KTWU–TV serves about 1.26 million people.

File No. 97040CTB Kansas Public Telecom. Service, In, 320 West 21st St. N. Wichita, KS 67203. Contact: Mr. Dale Heckel, VP/Dir. Operations. Funds Requested: $42,500. Total Project Cost: $85,000. To improve public television station KPTS–TV, Ch. 8, in Wichita by purchasing a new editor. This equipment will provide additional editing capability and begin the conversion to ATV. KPTS–TV provides service to about 387,773 people.

File No. 97188CRB The Kanza Society Inc., KANZ–FM 210 North Seventh Garden City, KS 67846. Contact: Ms. Kathleen Holt, Project Director. Funds Requested: $19,341. Total Project Cost: $38,682. To extend the signal of KANZ–FM (91.1 MHZ) in Garden City, KS by activating two FM translators in Washburn, TX (91.3 MHZ) and Amarillo, TX (94.9 MHZ). The Washburn facility will be fed by satellite and the Amarillo translator will receive its signal off-air from the Washburn translator. Stations will provide first nationally distributed public radio service to about 164,132 people.

File No. 97189CRB The Kanza Society Inc., KANZ–FM 210 North Seventh Garden City, KS 67846. Contact: Ms. Kathleen Holt, Project Director. Funds Requested: $33,292. Total Project Cost: $66,088. To improve and extend public radio station KANZ–FM, 91.1 MHZ, in Garden City by activating a new FM translator in Hugoton (92.3 MHZ) and acquiring a digital audio automation system that will enhance the station's production capabilities and allow it to extend its hours of operation. The Hugoton translator will provide a first public radio service to an additional 4,390 people.

File No. 97202CRB Wichita State University, KMUW–FM 3317 E. 17th Street Wichita, KS 67208. Contact: Mr. Mark McCain, General Manager. Funds Requested: $43,040. Total Project Cost: $86,080. To improve the facilities of public radio station KMUW–FM, on 89.1 MHZ, in Wichita by replacing an Uninterrupted Power Supply, upgrading the transmitter remote control system, replacing analog production equipment with digital recording and editing equipment and replacing the station's remote recording and broadcast equipment. KMUW–FM provides service to about 650,000 people. in south central KS.

File No. 97211CRB Kansas State University of Agricult, KKSU–AM Room 2 Fairchild Hall Kansas State University Manhattan, KS 66506. Contact: Mr. Larry Jackson, KKSU–AM Station Manager. Funds Requested: $10,800. Total Project Cost: $21,600. To improve public radio station KKSU–AM, 580 KHz, in Manhattan by replacing outdated remote transmission equipment, improving telephone audio broadcast capability and establishing a digital audio studio. KKSU–AM serves about 5.4 million people in most of KS and parts of ND, MO, IA and OK.

Kentucky

File No. 97077CRB Murray State University, WKMS Price Doyle Fine Arts Building 15th & Olive Streets Murray, KY 42071. Contact: Mrs. Kate B. Lochte, Station Manager. Funds Requested: $27,450. Total Project Cost: $36,600. To extend the signal of public radio station WKMS, 91.3 MHZ, Murray, KY, by activating translators on 92.1 MHZ in Paducah, KY, and on 99.5 MHZ in Paris, TN. The new translators will bring the first public radio signal to about 43,213 persons. WKMS serves about 278,000 persons from its existing facilities.

File No. 97087CRB Kentucky Public Radio (dba Public Radio Partnership) 301 York Street Louisville, KY 40203. Contact: Ms. Kathi Ellis, Grant Writer. Funds Requested: $344,959. Total Project Cost: $689,919. To improve the operation of the three public radio stations operated by Kentucky Public Radio—WFPL, 89.3 MHZ, WUOL, 90.5 MHZ, and WFPK, 91.9 MHZ—in Louisville, KY, by replacing worn-out and obsolete equipment, including two STL's, audio consoles, CD players, a CD recorder, compressor-limiters, DAT recorders, a hard-disk storage and editing system, microphones, patch bays, speakers, and a routing switcher. The three stations serve a population of about 3,057,566.

File No. 97096IPTN The Center for Rural Development, 2292 South Highway 27 Suite 300 Somerset, KY 42501. Contact: Mrs. Hilda Legg, Executive Director & CEO. Funds

Requested: $150,000. Total Project Cost: $200,000. To develop a plan for a video production and distribution facility that will be managed by the Center for Rural Development in Somerset, KY, through the cooperation of educational institutions, government agencies and corporate donors, to provide distance learning and training courses and economic development programs particularly to Kentucky's underdeveloped southern and eastern rural counties.

File No. 97142CTB Kentucky Educational Television, 600 Cooper Drive Lexington, KY 40502. Contact: Mrs. Virginia G. Fox, Executive Director. Funds Requested: $85,647. Total Project Cost: $171,295. To improve the operation of Kentucky Educational Television (KET) by refurbishing the antennas of WKGB, Ch. 53, Bowling Green, and WKON, Ch. 52, Owenton, both Kentucky, and by acquiring a package of test equipment for WKLE, Ch. 46, Lexington. KET serves a population of about 3,700,000 from fifteen full-power stations and five translators.

File No. 97179CTN Kentucky Educational Television, 600 Cooper Drive Lexington, KY 40502. Contact: Mrs. Virginia Fox, Executive Director. Funds Requested: $602,425. Total Project Cost: $1,204,850. To equip five state universities with satellite uplinks for the distribution of distance learning programing using the state owned satellite transponder to 1700 downlink sites within the state.

Louisiana

File No. 97021ICTN Orleans Parish Public Schools, Consolidated Programs 3500 General DeGaulle Dr. Room 232 New Orleans, LA 70114. Contact: Dr. James Lloyd, Compliance Officer. Funds Requested: $439,500. Total Project Cost: $605,500. To purchase the equipment necessary to asist the Orleans Parish Public Schools—in a partnership with public television station WLAE–TV, Ch. 32, New Orleans—to activate an ITFS system that would allow the school system to transmit diverse instructional programming to 130 schools in the greater New Orleans area. The project would also purchase the equipment for a remote production van.

File No. 97042ICTN New Orleans Educ. T/C Consortium, 2929 S. Carrollton Avenue New Orleans, LA 70118. Contact: Mr. Robert J. Lucas, Executive Director. Funds Requested: $85,303. Total Project Cost: $170,606. To extend the present ITFS-based distance learning network of the eight-college New Orleans Educational Telecommunications Consortium to the newly-established Slidell Campus of Delgado Community College as well as to the Stennis Space Center in nearby Mississippi.

File No. 97052CTB Greater New Orleans ETV Fdn., WYES–TV 916 Navarre Avenue New Orleans, LA 70124. Contact: Mr. Randall Feldman, President & General Mgr. Funds Requested: $177,332. Total Project Cost: $354,665. To improve public television station WYES–TV, operating on Channel 12 in New Orleans, LA, by replacing the worn-out antenna feedlines, on-air playback VCR's, the old digital effects generator, and waveform monitors.

File No. 97070CTB Educational Broadcasting Foundation, WLAE–TV 2929 S. Carrollton Ave. New Orleans, LA 70118. Contact: Mr. John Pela, Station Manager. Funds Requested: $101,637. Total Project Cost: $203,275. To improve public television station WLAE–TV, operating on Channel 32 in New Orleans, LA, by replacing the master control equipment and activating creation of a new educational cable channel, which is a Special Application project in the category of Distance Learning Development.

Massachusetts

File No. 97165CRB University of Massachusetts, WUMB–FM Radio 100 Morrissey Boulevard Boston, MA 02125. Contact: Ms. Patricia Monteith, General Manager. Funds Requested: $110,803. Total Project Cost: $158,290. To extend and improve the signal of public radio station WFPB–FM, operating on 91.9 MHZ in Falmouth, MA, by replacing the transmitter, antenna and transmission line and providing first public radio service to over 48,000 residents of Upper and Mid Barnstable county.

Maryland

File No. 97067CTB Maryland Public Broadcasting Commis, 11767 Owings Mills Boulevard Owings Mills, MD 21117. Contact: Mr. Robert Hoerr, Chief Engineer. Funds Requested: $219,800. Total Project Cost: $439,600. To improve the facilities of the State network, Maryland Public Broadcasting will replace the 23-year-old antenna and transmission line at WMPT–TV, Channel 22 in Annapolis, which provides public television services to over 6 million residents of Maryland.

File No. 97084CRB Salisbury State University Fdn., WSCL FM Route 13 (p.o. Box 2596) Caruthers Hall Salisbury, MD 21801. Contact: Mr. Fred Marino, General Manager. Funds Requested: $149,451. Total Project Cost: $229,925. To extend the signal of WSCL–FM, operating on 89.5 MHZ in Salisbury (MD) by constructing a repeater station serving Ocean City, operating on 90.7 MHZ. The new station will provide first public radio service to about 350,000 permanent and seasonal residents of Worcester County, Maryland and Sussex County, Delaware.

File No. 97154ICTN Chesapeake Regional Network, Inc., 269 Trinity Church Road Northeast, MD 21901. Contact: Mr. Douglas Donley, President. Funds Requested: $60,685. Total Project Cost: $84,285. To construct a four-channel ITFS facility to transmit instructional programming to the primary and secondary schools of the Cecil Co. Public School system. Cecil County is located in Maryland between Baltimore and Philadelphia.

File No. 97178CTN Community TV of Prince George's, Production Department 9475 Lottsford Road Suite 125 Largo, MD 20774. Contact: Ms. Sherry Byrne, Executive Director. Funds Requested: $440,000. Total Project Cost: $587,000. To replace worn-out production equipment and to purchase mobile studio equipment for Community Television of Prince George's, Largo, MD. The applicant's service is transmitted over the cable television system serving Prince George's County, MD.

Maine

File No. 97055CRB Maine Public Broadcasting Corp., 65 Texas Avenue Bangor, ME 04401. Contact: Mr. Gil Maxwell, Director of Engineering. Funds Requested: $30,387. Total Project Cost: $60,774. To improve the facilities of the state network, Maine Public Broadcasting will replace the 21-year-old transmitter at WMEM–FM, operating on 106.1 MHZ, serving the residents of Aroostook County, Maine.

File No. 97062CTB Maine Public Broadcasting Corp., 65 Texas Avenue Bangor, ME 04401. Contact: Mr. Gil Maxwell, Director of Engineering. Funds Requested: $150,000. Total Project Cost: $300,000. To improve broadcast facilities within the State network and to meet current industry standards, Maine Public Broadcasting will replace 12-year-old studio VTRs with DVC Pro format tape machines.

Michigan

File No. 97026ICTN Northern Michigan University, Learning Resources Center Elizabeth Harden Drive Marquette, MI 49855. Contact: Mr. Scott K. Seaman, Director of Learning Resources. Funds Requested: $225,000. Total Project Cost: $450,000. To install microwave to provide for two-way interactive video and audio as well as data transmission between and among

11 sites in a system terminating at Northern Michigan University, Marquette; Michigan Technological University, Houghton; and Bay de Noc Community College, Escanaba. The project will allow for T–1 service over video at all 11 installations. It will also interconnect the Keweenaw Bay Indian Tribe, Baraga, and the Hannahville Indian Tribe, LaBranche, by T–1 and construct distance learning classrooms on those Reservations.

File No. 97028ICTN Dickinson-Iron ISD, 1074 Pyle Drive Kingsford, MI 49802. Contact: Mrs. Mary L. Brien, Superintendent. Funds Requested: $253,367. Total Project Cost: $337,823. To install video classrooms in 10 high schools and two intermediate school districts, all located in extremely rural areas of Northern Michigan. The project will allow these schools to participate in a two-way interactive distance learning network interconnected by optical fiber.

File No. 97041CRB Detroit Board of Education, WDTR 5057 Woodward Avenue Detroit, MI 48202. Contact: Mr. Clifford E. Cox, Deputy Superintendent. Funds Requested: $449,163. Total Project Cost: $598,884. To improve the operation of public radio station WDTR, 90.0 MHZ, Detroit, MI, by replacing worn-out and obsolete transmission and production equipment, including the transmitter, consoles, and other items. The station serves a population base of about 3,968,575.

File No. 97115PTB Central Michigan University, CMU Public Broadcasting Public Broadcasting Center 3965 E. Broomfield Road Mt. Pleasant, MI 48859. Contact: Mr. Randall G. Kapenga, Director of Technical Services. Funds Requested: $68,407. Total Project Cost: $91,259. To plan for the conversion to Advanced Television by WCMU–TV, Ch. 14, Mt. Pleasant, MI, which serves a population of about 1,115,000. The plan will look at relocation, consolidation, cooperative construction, and educational outreach potential while maintaining the objective of universal coverage at sustainable operational expense.

File No. 97116CRB Central Michigan University, CMU Public Broadcasting Public Broadcasting Center 3965 East Bloomfield Road Mt. Pleasant, MI 48859. Contact: Mr. Thomas Hunt, Director of Radio. Funds Requested: $37,827. Total Project Cost: $75,655. To improve the production capacity of public station WCMU–FM, 89.5 MHZ, Mt. Pleasant, MI, by replacing worn-out and obsolete items of production equipment, including an audio console, CD players, jack panels, and DAT recorders and by acquiring a non-linear digital editing system. CMU Radio serves a population base of about 2,192,550.

Minnesota

File No. 97012CTB Northern Minnesota Public TV, KAWE/KAWB 1500 Birchmont Drive, Box Number 9 Bemidji, MN 56601. Contact: Mr. Bill Sanford, Director of Engineering. Funds Requested: $48,928. Total Project Cost: $65,237. To improve public television station KAWB–TV, operating on Channel 22 in Brainerd, MN, by providing the first local origination service to Central Minnesota. The other towns in the coverage area are Crosby, Staples, Breezy Point, Baxter, Pequot Lakes and Nisswa, MN.

File No. 97046CTB West Central Minnesota ETV, Pioneer Public Television 120 West Schlieman Avenue Appleton, MN 56208. Contact: Mr. Ansel Doll, General Manager. Funds Requested: $190,260. Total Project Cost: $380,520. To activate a repeater public television station K69HG, operating on Channel 69, in Fergus Falls, MN providing first signal to 50,714 potential viewers in West Central Minnesota.

File No. 97093CRB Red Lake Band of Chippewa Indians, Red Lake Tribal Council, Tribal Headquarters Building Red Lake, MN 56671. Contact: Mr. Bobby Whitefeather, Tribal Chairman. Funds Requested: $163,675. Total Project Cost: $287,150. To activate a full service public radio station operating on 94.1 MHZ in Red Lake, MN, providing the first local service utilizing local originated programming which is pertinent to the Indian way of life. This proposed station will serve 5,817 people on the Reservation and to 45,007 others in the surrounding region.

File No. 97131ICTN Asian Media Access Inc., 730 Hennepin Avenue Room 812 C/o Metropolitan State University Minneapolis, MN 55403. Contact: Mrs. Ange Hwang, Executive Director. Funds Requested: $140,708. Total Project Cost: $281,416. The applicant is requesting funding to acquire broadcast quality production equipment to establish an Asian American Production Studio at Metropolitan State University in Minneapolis, MN, to produce educational programs for local and national PBS stations and through the ITV system at MSU, reaching communities in greater Minnesota.

File No. 97148CRB Niijii Broadcast Corporation, Route 1 Box 291 Ponsford, MN 56575. Contact: Ms. Pam Ellis, Project Staff. Funds Requested: $289,167. Total Project Cost: $385,557. To activate a first signal, full service public radio station operating on 89.1 MHZ for the White Earth Ojibwe Reservation in Northwest Minnesota, providing service for 9,400 unserved, potential listeners.

File No. 97156CRB Minnesota Public Radio, 45 E 7th Street St Paul, MN 55101. Contact: Mr. Ron Hall, Research Assistant. Funds Requested: $290,005. Total Project Cost: $580,010. To improve the network of Minnesota Public Radio, in particular KNOW–FM, operating on 91.1 MHZ in Minneapolis-St. Paul and KSJN–FM, operating on 99.5 MHZ in Minneapolis, by replacing one audio console, 9 Studer B67 reel-to-reel tape machines, cart machines and one transmitter for KCCM–FM in Fargo/Moorhead. Also requested is digital audio library and a spectrum analyzer, which are upgrades.

File No. 97168ICTN Stephen/Argyle School District, Educational Television Project 705 Lincoln Avenue P. O. Box 279 Argyle, MN 56713. Contact: Mr. Mark Kroulik, Principal. Funds Requested: $17,907. Total Project Cost: $23,876. To establish a production studio for the Stephen/Argyle School District, Argyle, MN. The programming will be transmitted over a dedicated educational channel—Channel 16—of the local cable television system.

Missouri

File No. 97051CTB Public Television 19, Inc., KCPT 125 East 31st Street Kansas City, MO 64108. Contact: Ms. Brenda Williams, Grant Coordinator. Funds Requested: $328,475. Total Project Cost: $656,950. To improve the broadcast signal of public television station KCPT, Ch. 19, Kansas City, MO, by replacing its unreliable transmitter. The station serves a population base of about 1,600,000.

File No. 97114CRB New Wave Corporation, KOPN 915 East Broadway Columbia, MO 65201–4857. Contact: Mr. Steve Spencer, General Manager. Funds Requested: $65,686. Total Project Cost: $131,373. To improve the operation of public radio station KOPN, 89.5 MHZ, Columbia, MO, by replacing its unreliable transmitter, STL, and an audio console and by acquiring a hard-disk, non-linear editing and audio storage system. The station serves a population base of about 146,865.

File No. 97198CTB St. Louis Regional Ed & PTV Commiss, 6996 Millbrook Boulevard St. Louis, MO 63130. Contact: Mr. Michael Hardgrove, President & CEO. Funds Requested: $202,470. Total Project Cost: $404,940. To improve the production and operational facilities of public television station KETC, Ch. 9, St. Louis, MO, by replacing worn-out and obsolete items of origination and test equipment, including a switcher, an audio console,

a video monitor, loudspeakers, a waveform monitor, and a digital audio monitor. The items will complement the station's move into a new building. The station serves a population base of 3,000,000.

File No. 97199CTB St. Louis Regional Ed & PTV Commiss, 6994 Millbrook Boulevard St. Louis, MO 63130. Contact: Mr. Michael Hardgrove, President & CEO. Funds Requested: $1,681,670. Total Project Cost: $2,242,228. To extend the signal of public television station KETC, Ch. 9, St. Louis, MO, by activating a full-power repeater on channel 36 in Jefferson City, MO. The new station will bring the first public television signal to about 340,758 persons. KETC presently serves a population base of about 3,000,000.

File No. 97209CRB Double Helix Corporation, KDHX 3504 Magnolia St. Louis, MO 63118. Contact: Ms. Marge Reese, Development Director. Funds Requested: $3,719. Total Project Cost: $7,438. To augment the operational capacity of public radio station KDHX, 88.1 MHZ, St. Louis, MO, by acquiring the equipment with which to originate remote broadcasts. The station serves a population base of 2,500,000.

Montana

File No. 97009CTB Whitehall Low Power TV, Inc., 309 East Legion Avenue Whitehall, MT 59759–1504. Contact: Mr. Edward Folkwein, Manager. Funds Requested: $97,988. Total Project Cost: $130,650. To improve the facilities of Low Power public television station K52CE operating on Ch. 52 in Whitehall, by purchasing television production studio equipment to provide locally originated programs. The station serves 3,000 residents of Whitehall and areas of Jefferson and Madison Counties.

North Carolina

File No. 97110ICTN Central Piedmont Community College, 1201 Elizabeth Ave. P.O. Box 35009 Charlotte, NC 28235. Contact: Ms. Cynthia Erickson, Dir./Resource Development. Funds Requested: $100,039. Total Project Cost: $200,077. To install a second video classroom at Central Piedmont Community College to allow the College to expand its distance learning programming, which is distributed via a dedicated channel on the local cable television system.

File No. 97164CTB The University of North Carolina, Center for Public Television 10 TW Alexander Drive Research Triangle Park, NC 27709. Contact: Mrs. Joyce Ledbetter, Director of Finance. Funds Requested: $1,574,523. Total Project Cost: $4,890,000. To improve broadcast operations and extend its coverage area to include approximately 779,000 potential new viewers in the state's northeast region, the University of North Carolina Center for Public TV will replace critical transmission equipment and construct a taller tower at WUND–TV, Channel 2, in Columbia, NC.

North Dakota

File No. 97019CTB Prairie Public Broadcasting, Inc, 207 North 5th Street P.O. Box 3240 Fargo, ND 58108–3240. Contact: Mrs. Kathleen Pavelko, President & CEO. Funds Requested: $66,915. Total Project Cost: $133,830. To improve public television station KFME–TV, operating on Channel 13 in Fargo, ND, by replacing two worn-out 14-year-old one inch tape machines, six ¾" tape machines and two distribution amplifiers.

Nebraska

File No. 97170ICTN A*DEC Corporation, C218 Animal Science Building University Of Nebraska-Lincoln, NE 68583. Contact: Dr. Janet Poley, President/CEO. Funds Requested: $375,000. Total Project Cost: $750,000. To establish a teleport at Colorado State University, Fort Collins CO, which will permit expansion of the A*DEC services via multi-channel compressed digital video.

File No. 97192CTB Nebraska Educational Telecomm., 1800 N. 33rd Street P.O. Box 83111 Lincoln, NE 68501–3111. Contact: Mr. Rod Bates, Secretary. Funds Requested: $428,176. Total Project Cost: $856,353. To improve the Nebraska ETV Network by replacing for the mother station, KRNE–TV, operating on Channel 12 in Lincoln, NE, the obsolete and unreliable tape based audio editing system with a disk based digital audio work station; and the original lighting equipment in the main production studio. The project also includes replacing the tube-type VHF transmitter at KRNE–TV in Merriman, NE.

File No. 97193CRB Nebraska Educational Telecomm., 1800 N. 33rd Street P.O. Box 83111 Lincoln, NE 68501–3111. Contact: Mr. Rod Bates, Secretary. Funds Requested: $29,500. Total Project Cost: $59,000. To improve the Nebraska Educational Telecommunication Network of nine public radio stations; the mother station, KUCV–FM, operating on 90.9 MHZ in Lincoln, NE, has requested replacing the worn-out tape based audio editing equipment and the old NAB cartridge machines. Also requested is an upgrade of the telephone system by acquiring the supplement of its simple, single line telephone coupler.

New Hampshire

File No. 97002CTB University of New Hampshire, New Hampshire Public Television Route 155A So./Mast Road PO Box 1100 Durham, NH 03824. Contact: Mr. Robert Ross, Director of Engineering. Funds Requested: $255,000. Total Project Cost: $510,000. To improve the facilities of the State network by replacing 13-year-old studio cameras and 10-year-old field equipment at the network's broadcast center in Durham, New Hampshire.

New Jersey

File No. 97058IPTN Burlington County College, Pemberton-Browns Mills Road County Route 530 Pemberton, NJ 08068. Contact: Ms. Lisa Dichiara-Platt, Exe. Assist. to the President. Funds Requested: $90,000. Total Project Cost: $120,000. To design a technology plan for a new telecommunications facility that will connect a consortium of seven colleges in an interactive network to provide distance learning and workforce training to an underserved population in four counties of Southern New Jersey.

File No. 97136CRB Burlington County College, County Route 530 Pemberton-Browns Mills Road Pemberton, NJ 08068. Contact: Mr. Drew Jacobs, Program/Operations Manager. Funds Requested: $43,478. Total Project Cost: $57,971. To extend its signal and bring reliable public radio services to the entire population of Burlington County, non-commercial radio station WBZC–FM, operating on 88.9 MHZ in Pemberton, will activate two translators, one in Burlington/Beverly, operating on 95.1 MHZ, and one in Palmyra/Riverton, operating on 107.5 MHZ. These new translators will serve approximately 276,000 residents of the western edge of the county.

File No. 97157CRB New Jersey Public Broadcasting Auth, CN 777 25 South Stockton Street Trenton, NJ 08625. Contact: Mr. Robert Prindible, Deputy Director of Finance & A. Funds Requested: $145,792. Total Project Cost: $194,390. To extend and improve the State network by constructing a new transmitting system and STL for WNJM–FM, 88.9 MHZ in Manahawkin and WNJZ–FM, 90.3 MHZ in Cape May Court House. The new facilities will provide the first public radio service to over 26,000 residents and additional service to about 81,000 people in southeastern New Jersey.

New Mexico

File No. 97027CRB Alamo Navajo School Board, Inc., KABR–AM P.O. Box 907 Magdalena, NM 87825. Contact: Ms.

Lynda Middleton, Administrative Assistant. Funds Requested: $8,250. Total Project Cost: $11,000. To improve the facilities of noncommercial public radio station KABR–AM, 1500 kHz, in Magdalena by replacing some equipment in the on-air control room with an audio storage system. This will permit the transition to automated broadcasting and permit an increase in the number of broadcast hours without increasing the staff size. KABR–AM serves about 11,000 people in west central NM.

File No. 97080ICTN San Juan College, 4601 College Blvd. Farmington, NM 87402. Contact: Dr. Nelle Moore, Director/Grant Development. Funds Requested: $340,030. Total Project Cost: $453,374. To install a digital, single-channel ITFS system for San Juan College, Farmington, to allow the College to transmit diverse educational programming to learners throughout the extreme northwest corner of New Mexico. Because of the proposed system's digital technology, the College will be able to transmit simultaneously six channels of programming.

File No. 97145CRB Southern New Mexico Radio Foundation, 1505 Crescent Drive Alamogordo, NM 88310. Contact: Mr. Robert Flotte, President. Funds Requested: $194,941. Total Project Cost: $259,921. To activate a new noncommercial educational FM radio station on 91.7 MHZ, in Alamogordo to provide first local origination to approximately 54,700 people. Studios will be located on the Alamorgordo branch campus of New Mexico State University.

File No. 97166CTN Hispanic Educational Telecomm., University Of New Mexico Scholes Hall Albuquerque, NM 87203. Contact: Mr. Donald Fischer, Program Manager. Funds Requested: $840,606. Total Project Cost: $1,120,808. To expand participation in the Hispanic Educational Telecommunications System (HETS) project by construction of VSAT satellite terminals and origination classrooms at eight colleges serving Hispanic students: Lehman College and John Jay College of Criminal Justice in New York State; University of Texas-Brownsville; Kings River Community College in California; Miami Dade Community College and Florida International University in Florida; Ana G. Mendez University and the John Jay College of Criminal Justice in Puerto Rico.

File No. 97207IPTN Gallup-McKinley County Schools, P.O. Box 1318 Gallup, NM 87305. Contact: Mr. Robert Gomez, Superintendent. Funds Requested: $66,119. Total Project Cost: $87,069. Conduct a study to determine the feasibility of alternative technologies for an interactive network among 31 public schools, 17 Bureau of Indian Affairs schools, and 6 locations of the University of New Mexico for a distance learning and training service in the 5000-square-mile rural McKinley County in northwest New Mexico.

Nevada

File No. 97032PRB Shoshone-Paiute Tribes of Duck Valley, Tribal Headquarters Idaho/Nevada Stateline Highway P.O. Box 219 Owyhee, NV 89832. Contact: Mr. Herman Atkins, Tribal Administrator. Funds Requested: $75,166. Total Project Cost: $75,166. To conduct planning activities for the establishment of a non-commercial radio station that will provide first public radio service to approximately 1,500 residents of the Duck Valley Indian Reservation in Owyhee, Nevada.

File No. 97092CTB Clark County School District, KLVX–TV 4210 Channel 10 Drive Las Vegas, NV 89119. Contact: Mr. Tom Axtell, General Manager. Funds Requested: $423,175. Total Project Cost: $694,100. To expand and improve the broadcast capabilities of KLVX–TV, Channel 10 in Las Vegas by activating four translators and a microwave relay system that will provide first public television service to over 16,000 residents of Southern Nevada. In addition, KLVX will replace six camera pedestals and heads, the main routing switcher, and the transmitter waveform monitor and will upgrade its transmitter with a backup visual and aural exciters to reduce outages.

File No. 97112CRB University of Nevada-Las Vegas, KUNV–FM RADIO 91.5 4505 Maryland Parkway Las Vegas, NV 89154. Contact: Mr. Don Fuller, Interim General Manager. Funds Requested: $49,912. Total Project Cost: $99,912. To improve the facilities of KUNV–FM, operating on 91.5 MHZ in Las Vegas, Nevada by replacing 15-year old equipment including the on-air and production audio consoles and remote recording equipment. In addition, KUNV proposes to install a satellite downlink to provide national and regional programming to the community.

File No. 97206CRB Univ. of Nevada-Reno, KUNR 88.7–FM Public Radio University of Nevada, Reno Mail Stop 294 Reno, NV 89557. Contact: Ms. Mary Husemoller, Director of Sponsored Projects. Funds Requested: $96,787. Total Project Cost: $129,049. To extend the signal of KUNR–FM, operating on 88.7 MHZ in Reno by establishing a series of satellite-fed translators in northern Nevada and the California's eastern Sierra. Translators will be placed in Truckee, CA; Tahoe-Donner, CA; South Lake Tahoe, CA/NV; Bridgeport, CA; Lee Vining, CA; Mammoth Lakes, CA; Lone Pine, CA; Fallon, NV; Eureka, NV; Crescent Valley, NV; and Wendover, UT/NV. The project will provide first public radio service to an estimated 77,584 people.

New York

File No. 97007CTB Educational Broadcasting Corporation, Thirteen/WNET 356 West 58th Street New York, NY 10019. Contact: Mr. Kenneth Devine, Managing Dir. of Fac. Funds Requested: $304,900. Total Project Cost: $762,250. To improve public television station WNET, operating on Channel 13 in New York City, NY by replacing the 17 year old, 25 KW transmitter, which is increasingly unreliable and exceedingly costly to keep in operation.

File No. 97020CRTB Public Bdcstg Council of Central NY, WCNY 506 Old Liverpool Road P. 0. Box 2400 Syracuse, NY 13220. Contact: Mr. John Duffy, Chief Engineer. Funds Requested: $98,000. Total Project Cost: $196,000. To improve the facilities of the public television station and the three public radio stations the applicant operates (WCNY–TV Ch. 24, WCNY–FM 91.3 MHZ, WUNY–FM and WJNY–FM), by replacing key obsolete TV and FM broadcasting equipment, including an FM transmitter, two ½" digital video recorders, six audio distribution amps and one video distribution amp.

File No. 97036CTB WSKG Public T/C Council, 601 Gates Road Vestal, NY 13850. Contact: Mr. Michael J. Ziegler, President & CEO. Funds Requested: $1,703,250. Total Project Cost: $2,271,000. To activate a repeater non-commercial TV station on channel 57 in Waverly, NY, providing first signal to the towns of Waverly, Elmira, Watkins Glen. Ithaca in New York and Tioga, Mansfield, Sayre and Bradford Pennsylvania, serving 191,160 unserved potential viewers.

File No. 97039CTB WMHT Educational Telecommunications, WMHT–TV & WMHO–TV P.O. Box 17 17 Fern Avenue Schenectady, NY 12301–0017. Contact: Ms. Elizabeth Hood, Station Manager. Funds Requested: $222,925. Total Project Cost: $445,850. To improve public television station WMHT, operating on Channel 17, in Schenectady, NY by replacing outdated and unreliable equipment in its television on-line post production suite.

File No. 97049CRB Research Foundation of SUNY, WBFO–FM Sponsored Programs Admin. Ub 520 Lee Entrance Amherst, NY 14228. Contact:

Mr. Bradley Bermudez, Sponsored Programs Assoc. Funds Requested: $73,280. Total Project Cost: $146,561. To extend and improve public radio station WBFO–FM, operating on 88.7 MHZ in Amherst, NY, by increasing the power to the transmitter from 20 KW ERP to 50 KW ERP, necessitating a new transmitter and antenna and by replacing old, worn-out and malfunctioning audio, local production and on-air equipment with digital audio systems.

File No. 97054ICTN Hunter College, CUNY, 695 Park Avenue New York, NY 10021. Contact: Mr. Robert Buckley, Campus Rep. RF–CUNY. Funds Requested: $368,512. Total Project Cost: $737,024. To construct a multiple function distance learning facility which will include a satellite downlink, production studio, and video conferencing capability. The facility will utilize ISDN and T–1 interconnections to link to the City of New York I–NET system and CUNY systems.

File No. 97068CRB WSKG Public T/C Council, 601 Gates Road Vestal, NY 13850. Contact: Mr. Michael Ziegler, President/CEO. Funds Requested: $111,960. Total Project Cost: $149,280. To activate a repeater public radio station on 90.1 MHZ in Ithaca, NY, providing first signal to Ithaca and the surrounding rural region, which will serve 81,506 unserved potential listeners.

File No. 97079CTB Long Island Educational TV Council, WLIW–21 Channel 21 Drive Plainview, NY 11803. Contact: Mr. Terrel Cass, President. Funds Requested: $360,000. Total Project Cost: $720,000. To improve public television station WLIW–TV, operating on Channel 21, in Plainview, NY, by replacing the 24 year old broadcast antenna, transmission line and associated testing equipment, and replacing problematic editing equipment for local and national productions.

File No. 97083CRB Western New York Public Brdcg., WNED–FM 140 Lower Terrace Buffalo, NY 14202. Contact: Mr. Richard Daly, Sr VP Broadcasting. Funds Requested: $198,968. Total Project Cost: $397,936. To improve public radio station WNED–FM, operating on 94.5 MHZ in Buffalo, NY, by replacing a severely impaired nearly 40 year old tower, damaged antenna and transmission line, and an inadequate 19 year old transmitter.

File No. 97090CTB Mountain Lake Public Telecomm., WCFE–TV/Channel 57 One Sesame Street Plattsburgh, NY 12901. Contact: Mr. Howard Lowe, President & General Mgr. Funds Requested: $56,780. Total Project Cost: $115,878. To improve public Television station WCFE–TV, operating on Channel 57 in Plattsburgh, NY, by replacing a worn-out routing switcher and terminal equipment.

File No. 97103ICTN The Sage Colleges, 45 Ferry Street Troy, NY 12180–4115. Contact: Dr. David Bonner, Dir./Distance Learning & T/Med. Funds Requested: $417,280. Total Project Cost: $2,327,080. To purchase diverse distance learning equipment to allow an expansion of the Adirondack Area Network, a network that embraces extensive telemedicine and video conferencing activities among numerous health and education entities throughout that area.

File No. 97111ICTN Ulster County BOCES, 175 County Route 32 North New Paltz, NY 12561. Contact: Ms. Jane Bullowa, Ass't Supt./Instruct'l Serv. Funds Requested: $13,961. Total Project Cost: $18,615. To expand the applicant's satellite capability through the purchase of a digital C-and Ku-band satellite downlink. The applicant serves 101,617 students in a three-county region.

File No. 97117CTN Bronx Commun. Cable Progrm'ng Corp., (BRONXNET) 250 Bedford Park Blvd. West Bronx, NY 10468. Contact: Mr. James T. Carney, Executive Director. Funds Requested: $186,038. Total Project Cost: $372,076. To upgrade the production facilities of the BRONXNET community access cable television studios with digital equipment. BRONXNET transmits its programming over four cable TV channels to approximately 224,000 homes in the Bronx section of New York City. The new equipment will allow BRONXNET to produce programming that will reach new audiences among the traditionally unserved and underserved populations of that area.

File No. 97120ICTN Research Foundation-CUNY, Lehman College 250 Bedford Park Blvd. West Bronx, NY 10468–1589. Contact: Ms. Barbara Bralver, Director, Grants & Contracts. Funds Requested: $165,514. Total Project Cost: $331,028. To establish a digital video studio at Lehman College, which is located in the Bronx of New York City. The educational programming that would be produced at the studio would be distributed via a number of technologies to varied learning audiences.

File No. 97134PRB WJPZ Radio Inc, WJPZ–FM 316 Waverly Avenue Syracuse, NY 13210. Contact: Ms. Jaime Bell, General Manager. Funds Requested: $71,013. Total Project Cost: $94,685. Planning activities to explore a possible equipment configuration and cost to improve the station.

File No. 97139ICTN State University of New York, Empire State College One Union Avenue Saratoga Springs, NY 12866. Contact: Mr. William Ferrero, VP for Administration. Funds Requested: $792,534. Total Project Cost: $1,056,712. To expand a collegiate level Internet-based distance learning system to enable underserved students with an Internet connection—with some videoconferencing applications—in urban, suburban, and rural locations access to degree programs regardless of place and time.

File No. 97158PTB The Progressive Tenants Association, 330 Greenwich Street Hempstead, NY 11550. Contact: Ms. Stephanie Morris, Chief Executive Officer. Funds Requested: $175,000. Total Project Cost: $225,000. Applicant seeks funding to establish plans to construct a non-commercial TV station in Hempstead, NY. The goal will include fund raising, financing, seeking investors, hiring staff and consultants, and creating training programs to meet the underserved need of the Black Community in Nassau County.

File No. 97162CRB WXXI Public Broadcasting Council, WXXI–AM 280 State Street Rochester, NY 14614. Contact: Mr. Norm Silverstein, President & CEO. Funds Requested: $89,295. Total Project Cost: $178,590. To activate an FM full service station, WXXN, operating on 90.9 MHZ, in Spencerport, NY in order to extend the applicant's news and public affairs programming to unserved areas between Rochester and Buffalo numbering approximately 30,000 potential listeners, who receive no public radio signal.

File No. 97172CTN African American Media Network Ltd, 434 Nassau Rd. Roosevelt, NY 11575. Contact: Mr. Andre Guilty, Executive Director. Funds Requested: $80,913. Total Project Cost: $107,885. To establish a video production studio to originate programming that would be transmitted over the local cable television system in Roosevelt, NY. The applicant intends to produce programming that would meet the needs and interests of the African-American population of Nassau Co., NY.

File No. 97208ICTN Hamilton-Fulton-Montgomery BOCES, P.O. Box 665 212 County Highway 103 Johnstown, NY 12095. Contact: Dr. Geoffrey Davis, District Superintendent. Funds Requested: $205,852. Total Project Cost: $274,470. To install video classrooms at seven sites in the service area of the Hamilton-Fulton-Montgomery Board of Cooperative Education Services, in central New York State. The equipment will assist the BOCES in establishing a fiber optics-based, fully interactive, distance learning network. The

classrooms will be located at the BOCES site, at sites in each of five BOCES school districts, and at Fulton-Montgomery Community College.

File No. 97210CRB Long Island University, WPBX—88.3 FM Southampton College Southampton, NY 11968. Contact: Mr. Tim Bishop, Provost. Funds Requested: $88,083. Total Project Cost: $176,166. To improve public radio station WPBX–FM, operating on 88.3 MHZ in Southampton, NY, by replacing old obsolete and failing origination equipment in its on-air control room and primary production studio.

File No. 97212CRB Colleges of The Seneca, WEOS (FM) 300 Pulteney Street Geneva, NY 14456. Contact: Mr. Michael Black, General Manager. Funds Requested: $30,500. Total Project Cost: $61,000. To improve public radio station WEOS–FM, operating on 89.7 MHZ in Geneva, NY, by replacing cart machines and upgrading Master Control by the acquisition of an audio storage device. Also requested is a digital editing work-station for upgrading the studio and adding 6 microphones and stands.

File No. 97216ICTN Northport-East Northport U.F.S.D., 110 Elwood Road Northport, NY 11768. Contact: Mr. Thomas O'Donnell, Director, LRE. Funds Requested: $72,700. Total Project Cost: $145,400. To establish three teaching and learning piloting centers—in Albany, Kingston, and Northport—to provide all 951 public and nonpublic school communities in New York State with instructional programs intended to advance all students' achievements in new learning standards established by the New York State Board of Regents.

Ohio

File No. 97006CRB Miami University, WMUB Williams Hall Second Floor Spring and Oak Streets Oxford, OH 45056. Contact: Dr. Steven M. DeLue, Interim General Manager. Funds Requested: $47,636. Total Project Cost: $95,272. To improve the transmission quality of public radio station WMUB, 88.5 MHZ, Oxford, OH, by replacing its 20-year-old STL to complement the recent installation of a new transmitter. In addition, the project will improve the program origination capacity of the station by replacing worn-out and obsolete items of studio equipment, including a console, DAT recorders, CD players, an automation system, a cassette deck, and microphones and by acquiring a non-linear audio storage and editing system. The station serves a population base of about 312,302.

File No. 97017CTB Ohio University, Telecommunications Center WOUB–TV 9 South College Street Athens, OH 45701. Contact: Mr. Paul Witkowski, Interim Director. Funds Requested: $274,022. Total Project Cost: $548,044. To improve the production capability of public station WOUB–TV, Ch. 20, Athens, OH, by replacing three worn-out and obsolete camera systems and by acquiring a non-linear hard-disk editing system. The station serves a population of about 950,000.

File No. 97155CTB Greater Dayton Public Television, WPTD 110 South Jefferson Street Dayton, OH 45402. Contact: Mr. David M. Fogarty, President and General Manager. Funds Requested: $104,753. Total Project Cost: $209,506. To improve the operation of public television station WPTD, Ch. 16, Dayton, OH, by replacing various items of worn-out and obsolete equipment, including a routing switcher, a character generator, and monitors and by acquiring a non-linear editing system. The station serves a population of about 2,632,738.

File No. 97174CTB ETV Assoc. of Metropolitan Cleveland, WVIZ 4300 Brookpark Road Cleveland, OH 44134. Contact: Mr. Jerry F. Wareham, President/General Manager. Funds Requested: $177,250. Total Project Cost: $354,500. To improve the operation of public television station WVIZ, Ch. 25, Cleveland, OH, by replacing worn-out and obsolete 1" and ¾" videotape machines with a robotic digital tape cartridge storage system and by expanding the capacity of its master control switcher. The station serves a population of about 3,700,000.

File No. 97185CTB The Ohio State University, WOSU Stations 2400 Olentangy River Road Columbus, OH 43210. Contact: Mr. Tom Lahr, TV Engineering Manager. Funds Requested: $135,847. Total Project Cost: $271,694. To improve the operation of public television station WPBO, Ch. 42, Portsmouth, OH, by replacing the 24-year-old STL connecting it to its main station, WOSU–TV, Ch. 34, Columbus, and by establishing remote control of WPBO from WOSU–TV. The stations serve a population of 384,000.

File No. 97186CTBN Greater Cincinnati TV Edu'l Fndn, WCET 1223 Central Parkway Cincinnati, OH 45214. Contact: Mr. W. Wayne Godwin, President & General Manager. Funds Requested: $108,707. Total Project Cost: $217,415. To improve the operation of public television station WCET, Ch. 48, Cincinnati, OH, by acquiring a digital non-linear tape editing system and a package of production equipment to enable the station to expand its educational and instructional programs. The station serves a population of about 1,500,000 in Ohio, Kentucky, and Indiana.

Oklahoma

File No. 97048IPTN Murray State College, One Murray Campus Tishomingo, OK 73460. Contact: Mr. Dennis Toews, VP Planning & Research. Funds Requested: $33,750. Total Project Cost: $45,000. A consortium that includes Murray State College and seven public school systems, will develop a plan for a two-way interactive video network to provide distance learning services in a rural, economically disadvantaged three-county area of Southeast Oklahoma and the Chickasaw Nation.

File No. 97059ICTN Oklahoma State University, Educational Television Services Telecommunications Center Stillwater, OK 74078–0585. Contact: Dr. Glade Presnal, Senior Project Manager. Funds Requested: $199,733. Total Project Cost: $399,466. To install a compressed video classroom and video bridge on the main campus of Oklahoma State University, Stillwater, to transmit instructional programming statewide. The University plans to use the equipment to offer courses in the areas of health care management, engineering management, teacher certification, educational specialist, telecommunications management, Mvskodke (Creek and Seminole) language and culture, and Native American community-based employability skills training.

Oregon

File No. 97011CRB The KBOO Foundation, 20 S.E. 8th Avenue Portland, OR 97214. Contact: Ms. Suzanne White, Station Manager. Funds Requested: $38,950. Total Project Cost: $77,900. To improve the production facilities of public radio station KBOO–FM, operating on 90.7 MHZ in Portland, OR by replacing equipment in the on-air control room, including a mixing console, disk storage and compressor/limiter. The station serves 1.6 million people in the greater Portland area.

File No. 97099CTB Southern Oregon Public Television, 34 South Fir Street Medford, OR 97501. Contact: Mr. William Campbell, President/CEO. Funds Requested: $62,325. Total Project Cost: $83,100. To improve the production capability of public television station KSYS–TV, operating on Ch. 8 in Medford, by replacing three inoperable cameras. The applicant is currently using cameras on loan from a local school. KSYS serves 160,000 residents of southwest Oregon and northern California.

File No. 97104CRTB Oregon Public Broadcasting, OPB Administration 7140 SW Macadam Ave. Portland, OR 97219. Contact: Ms. Debbi Hinton, Sr. Vice President. Funds Requested: $59,853. Total Project Cost: $119,706. To improve services provided to the visually and aurally handicapped residents of Oregon. Stereo and SAP equipment will be added to the applicant's statewide public television system., including stations in Portland (KOPB–TV), Corvallis (KOAC–TV), Eugene (KEPB–TV), and La Grande (KTVR–TV). The television stations would distribute the applicant's Golden Hours Reading Service statewide.

File No. 97105CRB Oregon Public Broadcasting, OPB Administration 7140 SW Macadam Ave Portland, OR 97219. Contact: Ms. Debbi Hinton, Sr. Vice President. Funds Requested: $89,965. Total Project Cost: $179,930. To improve the facilities of public radio station KOPB–FM, operating on 91.5 MHZ in Portland and KOAC–AM, operating on 550 KHz in Corvallis. The project would replace aging analog audio routing systems with digital systems. The stations provide radio service to 2,712,500 residents of Oregon.

Pennsylvania

File No. 97094CRB The Pennsylvania State University, WPSU 102 Wagner Building University Park, PA 16802–3899. Contact: Mr. Mark D. Erstling, General Manager. Funds Requested: $40,066. Total Project Cost: $53,422. To extend the coverage of public radio station WPSU, 91.5 MHZ, University Park, PA, by activating translators at 104.7 MHZ in Clearfield, at 92.1 MHZ in DuBois, and at 95.1 MHZ in Treasure Lake, PA, to bring the first public radio signal to about 24,036 persons. WPSU presently serves a population of about 364,769.

File No. 97100CTB WQED Pittsburgh, WQED–TV 4802 Fifth Avenue Pittsburgh, PA 15213. Contact: Mr. Jeffrey E. Rutkowski, Director, Administrative Svcs. Funds Requested: $98,828. Total Project Cost: $197,656. To improve the operation of public station WQED–TV, Ch. 13, Pittsburgh, PA, by replacing four worn-out and obsolete analog video tape recorders with composite digital recorders. The station serves a population of about 3,250,000.

File No. 97109IPTN Titusville Redevelopment Authority, 144 W. Spring Street 2nd Fl. PO Box 425 Titusville, PA 16354. Contact: Mr. James Allyn, Executive Director. Funds Requested: $29,600. Total Project Cost: $29,600. To assess current and future alternative technological systems and needs that might be feasible for a potential interconnected network among government agencies, educational institutions, and business organizations in Titusville, PA and eight surrounding municipalities.

File No. 97143CRB The Pennsylvania State University, WPSU 102 Wagner Building University Park, PA 16802–3899. Contact: Mr. Mark D. Erstling, General Manager. Funds Requested: $32,412. Total Project Cost: $64,825. To improve the operation of public radio station WPSU, 91.5 MHZ, University Park, PA, by replacing items of worn-out and obsolete production equipment, including an audio console, minidisk system, DAT recorders, CD players, a telephone hybrid, monitoring speakers, and microphones and by acquiring a non-linear hard-disk audio storage and editing system. The station serves a population of about 364,769.

File No. 97167ICTN Crawford County Regional Alliance, R.D. 2 Dunham Road Meadville, PA 16335. Contact: Mrs. Maryann Martin, Dir. of Grant Administration. Funds Requested: $74,338. Total Project Cost: $152,250. To purchase video conferencing equipment to allow for workforce training and education in Crawford County, which is a rural and isolated area in northwest Pennsylvania. The equipment would be located in the William J. Bainbridge Technology Center, in Meadville. The emphasis would be on the skills training and upgrading for the area's tool and machine industry workforce. Much of the course work would be transmitted from Edinboro University of Pennsylvania and Pennsylvania State University at Erie.

File No. 97183CRB Pittsburgh Community Bdcstg, Inc., WYEP 2313 East Carson Street Pittsburgh, PA 15203. Contact: Mr. Lee J. Ferraro, General Manager. Funds Requested: $104,762. Total Project Cost: $139,683. To improve the operation of public radio station WYEP, 91.3 MHZ. Pittsburgh, PA, by replacing items of worn-out and obsolete production equipment, including audio consoles, microphones, patch bays, and DAT recorders, and by acquiring an 8-track audio tape recorder, a digital cart system, and a non-linear editing system. The station serves a population of about 1,300,000.

File No. 97214CRB WQED Pittsburgh, WQED–FM 4802 Fifth Avenue Pittsburgh, PA 15213. Contact: Mr. Jim Cunningham, Station Manager. Funds Requested: $89,043. Total Project Cost: $118,724. To extend the signal of public station WQED–FM, 89.3 MHZ, Pittsburgh, PA, by activating a repeater at 88.3 MHZ in Oil City, PA, to serve about 56,184 persons.

Puerto Rico

File No. 97031CTB Puerto Rico Public Brdcstg Corp., Office of Planning & Dev. 570 Hostos Avenue Baldrich San Juan, PR 00919. Contact: Mrs. Alba Rivera, Acting Dir., Dev. & Planning. Funds Requested: $192,455. Total Project Cost: $384,910. To improve the facilities of WIPR–TV, operating on Ch. 6 in San Juan, by establishing a translation and dubbing center to translate educational and instructional programming into Spanish. The programs will be available to the 3.5 million people served by the applicant as well as educators and public broadcasters on the mainland serving Hispanic audiences.

South Carolina

File No. 97005ICTN South Carolina ETV Commission, 1101 George Rogers Boulevard P. 0. Box 11000 Columbia, SC 29201. Contact: Mr. Ronald Schoenherr, Senior Vice President. Funds Requested: $359,296. Total Project Cost: $718,592. To construct a locally-programmed, four-channel ITFS distance learning system to serve Williamsburg County, in eastern South Carolina. The system will primarily serve the educational needs of the elementary, middle, secondary and vocational schools in the county, a total of 15 schools and over 7,000 students. The system will also offer adult education courses to benefit the entire population of the county. The proposed system will be part of the South Carolina Educational Television Commission's expanding statewide telecommunications network.

File No. 97060ICTN Trident Technical College, P.O. Box 118067 Charleston, SC 29423–8067. Contact: Ms. Cindy Schirle, Grants Coordinator. Funds Requested: $134,611. Total Project Cost: $420,658. To expand the applicant's broadcast video capabilities through the activation of a Ku-band analog uplink and teleconferencing center.

File No. 97217IPTN Coastal Carolina University, 755 Highway 544 Conway, SC 29526. Contact: Dr. Richard Moore, Assistant VP, Grants & SR. Funds Requested: $92,906. Total Project Cost: $122,495. To develop a comprehensive telecommunications plan for Georgetown County, SC, that will incorporate higher education institutions including Coastal Carolina University's Georgetown campus, government offices, social service agencies, and businesses in a cooperative distance learning network to provide educational courses and job-

related training programs throughout the county.

South Dakota

File No. 97140CTB S. Dak. Board of Dir. for Education, Cherry & Dakota Streets Vermillion, SD 57069–5000. Contact: Mr. Don Forseth, Coord. Tech. Services. Funds Requested: $319,000. Total Project Cost: $638,000. To improve public television station KQSD–TV, Ch. 11, in Lowry by replacing a 23-year old television transmitter and associated equipment. Station serves about 35,000 people.

Tennessee

File No. 97014CRB University of Tennessee, WUTC–FM, Division of University 104 Cadek Hall 615 McCallie Avenue Chattanooga, TN 37403. Contact: Dr. John McCormack, Director. Funds Requested: $36,759. Total Project Cost: $73,519. To improve operations and ensure dependable coverage, the University of Tennessee's WUTC–FM, operating on 88.1 MHZ in Chattanooga, will replace its transmitter and modify its antenna.

File No. 97072CRB Cossitt Library, WYPL, Memphis Public Library 1850 Peabody Avenue Memphis, TN 38104. Contact: Mr. Steven Terry, General Manager. Funds Requested: $217,430. Total Project Cost: $434,861. To extend the signal of public radio station WYPL–FM, operating on 89.3 MHZ in Memphis, by relocating the transmitter and increasing the station's power. This improvement will provide a first service to three counties in Tennessee, six counties in Arkansas, and two counties in Mississippi, with a combined population of approximately 86,000, and will increase the area of the station's Radio Reading Service to approximately 500,000 additional people in Tennessee and surrounding states.

File No. 97135CTB Metropolitan Board of Public Educat, WDCN–TV 161 Rains Avenue Nashville, TN 37203. Contact: Mr. Robert Shepherd, Executive VP & GM. Funds Requested: $95,000. Total Project Cost: $270,000. To improve the facilities of public television station WDCN–TV, Channel 8 in Nashville, TN, serving approximately 1,300,000 people, by replacing the 20-year old studio lighting control and dimmer system.

Texas

File No. 97004CRB The University of Texas at Austin, KUT Radio Communications Building B 2504 Whitis Street Austin, TX 78712. Contact: Mr. Dana Whitehair, Technical Operations Mgr. Funds Requested: $75,405. Total Project Cost: $100,541. To provide the first public radio service to 145,665 residents of Bosque, Falls and McLennan Counties by constructing an FM repeater station in Waco operating on 88.9 MHZ. The station will also provide additional public radio service to 192,777 residents of Bell, Coryell, Falls, McLennan and Milam Counties. The station will rebroadcast the program service of KUT–FM, 90.5 MHZ. in Austin and will be fed by satellite delivery.

File No. 97008CTB Alamo Public T/C Council, KLRN 501 Broadway San Antonio, TX 78215. Contact: Mr. Charles Vaughn, Sr. VP Telecommunications. Funds Requested: $97,768. Total Project Cost: $195,536. To improve public television station KLRN–TV, Ch. 9, in San Antonio by acquiring a standby studio-to-transmitter (STL) microwave link, additional router switch cards, digital audio recording and editing equipment and replacing two worn out ¾" videocassette recorders. KLRN–TV provides a public television service to approximately 2 million people.

File No. 97015CTB Capital of Texas Public T/C Council, KLRU–TV 2504–B Whitis Street Austin, TX 78705. Contact: Mr. Bill Arhos, President. Funds Requested: $96,697. Total Project Cost: $193,395. To improve public television station KLRU–TV, Ch. 18, in Austin by replacing old, obsolete editing equipment with a non-linear editing system and related equipment. New equipment will significantly improve the station's tape editing efficiency. KLRU–TV serves approximately 1.2 million people.

File No. 97043ICTB Laredo Community College, West End Washington Laredo, TX 78040. Contact: Mr. Blas Casteneda, Exec. Assist. to the President. Funds Requested: $419,820. Total Project Cost: $559,765. To activate a public television station, which will operate on ch. 39 and bring the first public television service to over 130,000 residents of Laredo, TX, and the surrounding area.

File No. 97050CTB South Texas Public Brdcstg. System, 4455 South Padre Island Drive Suite 38 Corpus Christi, TX 78411. Contact: Mr. Don Dunlap, President & General Mgr. Funds Requested: $151,050. Total Project Cost: $201,400. To improve public television station KEDT–TV, Ch. 16, in Corpus Christi by replacing old, obsolete dissemination equipment (spread spectrum data link and monitoring equipment) and origination equipment (local break insertion equipment, audio production equipment and a lighting update package). KEDT–TV provides the only public television service to about 500,000 people in Corpus Christi plus 12 counties.

File No. 97086CRB Texas Educational Broadcasting Coop, 304 East 5th Street Austin, TX 78701. Contact: Ms. Jenny Wong, General Manager. Funds Requested: $13,500. Total Project Cost: $21,500. To improve public radio station KOOP–FM, 91.7 MHZ, in Austin by replacing old, obsolete equipment including a modulation monitor, an audio console and cabinet, 3 cassette recorders, a turntable, 2 headphones and 2 microphones. KOOP–FM provides service to about 500,000 people in Austin and Travis County.

File No. 97095ICTN Amarillo Junior College District, 2408 S. Jackson P.O. Box 447 Amarillo, TX 79109. Contact: Ms. Joyce Herring, General Manager/KACV–TV. Funds Requested: $334,645. Total Project Cost: $446,194. To assist a consortium of four West Texas post-secondary academic institutions deploy the first phase of an educational and instructional videoconferencing network that would serve the Texas Panhandle. The four schools are: Amarillo College, Amarillo; Clarendon College, Clarendon; Frank Phillips College, Borger; and West Texas a & M University, Canyon.

File No. 97098IPTN San Antonio Fight. Back/United Way, 850 E. Drexel San Antonio, TX 78210. Contact: Ms. Beverly Watts Davis, Executive Director. Funds Requested: $256,812. Total Project Cost: $342,416. To plan for the conversion of a general-purpose building in San Antonio, TX, to a telecommunications center, primarily for the production and distribution of educational and community service programming through cable television access channels.

File No. 97106CTB North Texas Public Broadcasting Inc, 3000 Harry Hines Blvd. Dallas, TX 75201. Contact: Mr. Clyde Miller, Vice Pres. & Chief Eng. Funds Requested: $45,000. Total Project Cost: $90,000. To improve public television station KERA–TV, Ch. 13, in Dallas by replacing a nine-year old semi-automatic video cart machine playback system with a new video hard drive server. KERA–TV provides public television service to about 5 million people.

File No. 97128ICTN The Univ. of Texas—Pan American, COSERVE/CEED 1201 W. University Drive Edinburg, TX 78539. Contact: Mr. Roland Arriola, Executive Director. Funds Requested: $326,415. Total Project Cost: $435,220. To purchase remote video production equipment to activate a community access system the programs of which will be transmitted over dedicated cable

television channels in the communities of Edinburg, Rio Grande City, and Mercedes, all located in extreme south Texas.

File No. 97169CRB Texas Tech University, KOHM P.O. Box 43082 102 Mass Communications Building Lubbock, TX 79409. Contact: Dr. Clive Kinghorn, General Manager. Funds Requested: $10,000. Total Project Cost: $20,100. To improve public radio station KOHM–FM, 89.1 MHZ, in Lubbock by replacing a nine-year-old audio console. KOHM–FM provides the only public radio service to approximately 260,000 people.

File No. 97177CTB University of Houston, KUHT–TV (Houston Public TV) 4513 Cullen Boulevard Houston, TX 77004. Contact: Mr. Jeff Clarke, CEO & General Manager. Funds Requested: $511,240. Total Project Cost: $1,278,099. To improve public television station KUHT–TV, Ch. 8, in Houston by replacing a 13-year-old transmitter and an outdated on-air routing switcher. KUH–TV provides the only public TV signal to about 4.2 million people in metropolitan Houston and surrounding communities.

File No. 97181ICTN Alliance for Higher Education, Lb 107 Suite 250 17103 Preston Road Dallas, TX 75248. Contact: Dr. Harvey Stone, Dir. for Network Programming. Funds Requested: $1,408,591. Total Project Cost: $2,817,182. To expand the service area of the Alliance Information Network. The project will purchase digital equipment to link 23 institutions via T–1 lines to the network. The Alliance Information Network is constructing a fiber optic network to serve the higher education, K–12 schools and health care systems in the Dalles-Fort Worth Metroplex.

File No. 97203ICTN Houston Community College System, 22 Waugh Drive P.O. Box 7849 Houston, TX 77270–7849. Contact: Dr. Charles Orsak, Dir./Research & Development. Funds Requested: $711,028. Total Project Cost: $1,422,056. To purchase head-end, production, and editing equipment that would activate a cable television access channel and bring diverse educational and municipal programming to the city of Stafford, TX.

File No. 97219ICTN San Saba Independent School Dist., INFO–NET 607 West Storey St. San Saba, TX 76877. Contact: Mr. Johnny W. Clawson, Superintendent. Funds Requested: $341,950. Total Project Cost: $516,950. To extend the INFO–NET distance learning system to four additional school districts in central Texas. The new INFO–NET members would be the Evant, Lometa, Richland Springs, and San Saba Independent School Districts. The INFO–NET system currently consists of eight rural central Texas school districts. With the additional districts, the INFO–NET system would serve the following counties: McCulloch, Mills, San Saba, Coryell, Hamilton, and Lampasas.

Utah

File No. 97034CRB Utah State University of Agriculture, KUSU–FM 8505 University Blvd Logan, UT 84322–8505. Contact: Mr. Bryan Earl, Development Director. Funds Requested: $9,112. Total Project Cost: $12,150. To extend the signal of public radio station KUSU–FM, 91.5 MHZ, in Logan, by constructing a new FM translator on 100.1 MHZ in Roosevelt. The new translator will provide first service to about 10,250 people.

File No. 97069CTB University of Utah, Media Services 101 Wasatch Drive Eccles Broadcast Center—Room 1 Salt Lake City, UT 84112. Contact: Mr. Edward Ridges, Associate Director. Funds Requested: $150,665. Total Project Cost: $286,266. To improve and extend the facilities of public television stations KUED–TV (Ch. 7) and KULC–TV (Ch. 9) in Salt Lake City by replacing seven old TV translators: K56AE (Heber City-Wasatch County); KO7JV (Circleville-Piute County); K21EI (Beryl/Modena/Newcastle-Iron County); K56AZ (Antimony-Piute County); K56BP (Hatch-Garfield County); K30DE (Apple Valley-Washington County); K46DF (Paren.-Iron County). Project will add two new TV translators at Orderville-Kane County (Ch. 21) and Spencer Bench/Alton-Kane County (Ch. 54). Project will also connect KULC–TV and KUED–TV translators and the fiber optic network via microwave in Washington and Iron counties. In addition, project will replace an unreliable audio and visual exciter on the KULC–TV transmitter. Stations serve about 1.7 million people and two new translators will add first service to about 975 people.

Virginia

File No. 97126ICTN SW Virginia Educ. & Training Netwrk, 15856 Porterfield Highway P.O. Box 1987 Abingdon, VA 24212–1987. Contact: Mr. Bruce Mathews, Executive Director. Funds Requested: $49,644. Total Project Cost: $99,289. To establish a video classroom for the Southwest Virginia Education and Training Network. The classroom, which would be located at the Southwest Virginia Higher Education Center in Abingdon, would be one of a network of such video classrooms under development by the Network. All the classrooms will be interconnected by fiber optic cable in a broadband, digital, switched service provided by the telephone companies.

File No. 97187ICTN Old Dominion University, Academic Television Services Room 228 Education Building Norfolk, VA 23529. Contact: Dr. J.C. Phillips, Director Academic TV. Funds Requested: $204,760. Total Project Cost: $409,520. To expand the service to the TELETECHNET distance learning project to six additional regions of Virginia. Satellite receive equipment will be placed at educational institutions in Big Stone Gap, Fredericksburg, Chester County, Hampton, Herndon, and Suffolk, VA. The project will also purchase equipment to permit extension of the TELETECHNET, through closed captioning, to the hearing impaired, ESL (English as a second language) and learning disabled population of Virginia.

File No. 97213CRB Clinch Valley College/U. of VA, Office of College Relations 1 College Avenue Wise, VA 24293. Contact: Mr. Scott Pippin, Director of College Relations. Funds Requested: $155,620. Total Project Cost: $282,085. To provide first or improved public radio services to about 35,000 residents of the southwestern corner of the state of Virginia by constructing a Class a radio station in Wise (VA), operating on 90.5 MHZ.

Washington

File No. 97025CRB KSER Foundation, KSER Community Radio 14920 Hwy 99 #150 Lynnwood, WA 98037. Contact: Mr. John Thielke, President. Funds Requested: $10,650. Total Project Cost: $14,200. To improve the facilities of KSER–FM, 90.7 MHZ in Lynnwood, Washington, by replacing analog origination equipment with digital equipment, including DAT recorders, microphones, headphones and a digital audio editing station.

File No. 97056CTB Bates Technical College, KBTC–TV 1101 South Yakima Avenue Tacoma, WA 98405. Contact: Ms. Debbie Emond, General Manager. Funds Requested: $437,829. Total Project Cost: $583,773. To expand and improve the services of KBTC–TV, Channel 28 in Tacoma, by constructing a repeater station in Bellingham, operating on channel 34 and providing first public television services to approximately 173,000 people .

File No. 97065CTB Washington State University, Educational T/C and Technology 382 Murrow Center Administration Road Pullman, WA 99164–2530. Contact: Mr. Dennis Haarsager, Assoc. VP & General Mgr.

Funds Requested: $123,492. Total Project Cost: $246,984. To improve the production facilities of KWSU–TV, Channel 10 in Pullman and KTNW–TV, Channel 31 in Richland, by replacing the 19-year-old studio production switcher and video effects unit.

File No. 97073CRB Washington State University, Educational Telecomm. & Technology 382 Murrow Center Administration Road Pullman, WA 99164–2530. Contact: Mr. Dennis Haarsager, Assoc VP & General Mgr. Funds Requested: $206,453. Total Project Cost: $275,271. To expand the public radio network by constructing satellite stations in Chehalis (88.9 MHZ), Mt. Vernon (91.7 MHZ) and Port Angeles (90.1 MHZ). The proposed new facilities will provide first public radio services to about 168,000 rural residents of western Washington.

File No. 97097ICTN Seattle Community College Dist. VI, Department of Communications 1500 Harvard Avenue Seattle, WA 98122–2400. Contact: Mr. Ross Davis, Director of Communications. Funds Requested: $54,000. Total Project Cost: $72,000. To improve the production facilities of the Seattle Community College District VI video production studio by purchasing editing and post-production equipment, including a non-linear editing station. This would allow the College District to extend its distance learning service to new learners via local cable television stations and ITFS channels.

File No. 97102IPTN Northwest Indian College, Extension Services 2522 Kwina Road Bellingham, WA 98226. Contact: Mr. Jeff Hamley, Dean, Extension Services. Funds Requested: $130,353. Total Project Cost: $164,760. To complete a telecommunications study and action plan to link Northwest Indian College with the American Indian Higher Education Council (AIHEC) distance learning network, creating a northwest subnetwork capable of extending educational services and programs to more than 45 tribal communities in the Pacific Northwest and Alaska.

File No. 97220CRB Spokane Public Radio, KPBX 2319 North Monroe Street Spokane, WA 99205. Contact: Mr. Richard Kunkel, President & GM. Funds Requested: $166,605. Total Project Cost: $222,140. To improve the facilities of KPBX–FM, 91.1 in Spokane (WA) by replacing the 19-year-old transmitter, exciter, modulation monitor system and the building ventilation system.

Wisconsin

File No. 97160CTB Milwaukee Area Technical College, WMVS/WMVT 1036 North 8th Street Milwaukee, WI 53233. Contact: Mr. Bryce Combs, General Manager. Funds Requested: $1,299,400. Total Project Cost: $2,598,800. To improve public television stations WMVS–TV, operating on Channel 10, and WMVT–TV, operating on Channel 36 in Milwaukee, WI, by replacing worn-out and obsolete transmission equipment including three transmitters, two antennas, two transmission lines (all of which are almost 17 years old), and a tower strengthening study.

File No. 97176CRB Back Porch Radio Broadcasting, Inc., WORT 118 South Bedord Street Madison, WI 53703. Contact: Ms. Cynthia Fesemyer, Business & Foundation Director. Funds Requested: $20,000. Total Project Cost: $41,144. To improve public radio station WORT–FM, operating on 89.9 MHZ, in Madison, WI, by replacing its very limited and unstable STL with a new microwave radio system and adding the necessary one-way stereo RPU package.

File No. 97194CTB State of Wisconsin, Educational Communications Board 3319 West Beltline Highway Madison, WI 53713–4296. Contact: Mr. Thomas L. Fletemeyer, Executive Director. Funds Requested: $200,500. Total Project Cost: $401,000. To improve the facilities within the State network through the mother TV station WHA–TV, operating on Channel 21 in Madison, WI, by replacing worn-out and obsolete master control equipment at the statewide origination and distribution center. The items to be replaced are video tape machines and video monitors.

West Virginia

File No. 97047ICTN Bluefield State College, 219 Rock Street Bluefield, WV 24701. Contact: Ms. Annette Osborne, Dir./Inst. Advancm't & Plan'g. Funds Requested: $225,000. Total Project Cost: $300,000. To extend the distance learning network of Bluefield State College, the main campus of which is in Bluefield, WV. The project would install a codec and video classroom equipment at the College's Beckley Campus. The project would also upgrade the College's present receive-only video classroom at the Greenbrier Community College Center to full origination capability. In addition, at public television station WSWP–TV, Beckley, the project would install a digital multipoint control unit to serve as the distance learning network hub. Also, the project would construct receive-only video classrooms at Pocahontas County High School and at the McDowell County Vocational Technical Center, Welsh. The network sites are interconnected by T–1 service.

Bernadette McGuire-Rivera,

Associate Administrator, Office of Telecommunications and Information Applications.

[FR Doc. 97–13145 Filed 5–19–97; 8:45 am]

BILLING CODE 3510–60–P

federal register

Tuesday
May 20, 1997

Part III

Department of Education

Rehabilitation Short-Term Training; Notice

DEPARTMENT OF EDUCATION

RIN 1820–ZA09

Rehabilitation Short-Term Training

AGENCY: Rehabilitation Services Administration (RSA), Department of Education.

ACTION: Notice of proposed priority for fiscal year 1997.

SUMMARY: The Secretary proposes a priority for fiscal year 1997 under the Rehabilitation Short-Term Training program. The Secretary takes this action in order to improve the leadership among top-level managers and administrators of the State Vocational Rehabilitation Services program.

DATES: Comments must be received on or before June 19, 1997.

ADDRESSES: All comments concerning this proposed priority should be addressed to Sylvia Johnson, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3318, Switzer Building, Washington, D.C. 20202–2601. Comments may also be sent through the Internet to: Sylvia_Johnson@ed.gov

FOR FURTHER INFORMATION CONTACT: Sylvia Johnson. Telephone: (202) 205–9312. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–8133. Internet: Sylvia_Johnson@ed.gov

SUPPLEMENTARY INFORMATION: This notice contains a proposed priority to establish a National Rehabilitation Leadership Institute to improve the leadership skills of top-level managers and administrators of the State Vocational Rehabilitation Services program.

Goals 2000: Educate America Act

The Goals 2000: Educate America Act (Goals 2000) focuses the Nation's education reform efforts on the eight National Education Goals and provides a framework for meeting them. Goals 2000 promotes new partnerships to strengthen schools and expands the Department's capacities for helping communities to exchange ideas and obtain information needed to achieve the goals.

This proposed priority would address the National Education Goal that every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship. The proposed priority would further the objectives of this Goal by focussing available funds on projects that improve the leadership skills of top administrators of State vocational rehabilitation (VR) agencies, which will improve the responsiveness of the VR system to adults with disabilities and their vocational pursuits.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priority does *not* solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Background

Authority for the Rehabilitation Short-Term Training program is contained in section 302 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 774). Under this program the Secretary makes awards to public agencies and private agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. This program is designed for the support of special seminars, institutes, workshops, and other short-term courses in technical matters relating to the vocational, medical, social, and psychological rehabilitation programs, independent living services programs, and client assistance programs.

The State Vocational Rehabilitation Services program is undergoing significant change. In their efforts to improve the employment outcomes of the individuals they serve, State VR agencies have been changing the way they operate. For example, most State VR agencies have taken steps to streamline VR services, analyzing their practices, policies, and procedures and eliminating or modifying those that inhibit responsive service delivery. In addition, State VR agencies increasingly recognize that their success in promoting the employment of their consumers depends in part on the strength of their linkages with employers and with generic employment and training programs.

The changed environment of State VR agencies demands a different set of skills from leaders and managers than has traditionally been required. Managers and leaders in the VR system need to develop new skills that will enable them, for example, to change their agencies' focus from processes and compliance to the achievement of high-quality outcomes and to build working relationships with organizations outside their agencies.

Elements of a VR Leadership Training Program

To have maximum utility to administrators in the State VR Services program, a leadership training program must include training in leadership skills that includes periodic reinforcement and feedback to participants, application of leadership skills to VR issues, and provision of training in a peer setting.

Many skills associated with effective leadership can be taught, given sufficient instruction, practice, and feedback on performance. Effective skills training uses a strategy of repeated practice over time with feedback on performance. In the training arena, this often translates into providing a series of training programs. The time between training programs is used for practicing newly learned skills. Subsequent events allow for feedback by instructors and peers on their efforts. For example, an institute may propose a series of short courses (several days each) over the course of a year, each building upon the other. The time between the courses would be used to try out new techniques and exercise new skills. At the next course, experiences may be discussed to allow the instructors to provide feedback. The instructors could then move along to new topics. It is a progressive learning technique that has proven effective, especially when training busy professionals such as rehabilitation administrators. There also may be a "pick and choose" series of courses from which a given administrator, in concert with a training specialist on the grantee's staff, could select to develop a "customized" program of learning. Efforts such as these have proven to be effective in programs designed for busy professionals.

The second element of effective VR leadership training is the application of training to actual issues. This approach both helps trainees solve real problems and relates to a long-held principle of adult learning: adults learn most effectively when the content of the training is directly related to issues they face. Within VR, new policies, initiatives, and legislation will require top administrators and directors to make

major changes in procedures and practices within their agencies. Tying the content of leadership training to these types of issues makes the training in leadership skills more effective and helps solve real world problems.

The third element of effective leadership training is the provision of training in a peer setting. A well-tested management principle relates to the benefits of working in teams with others who face similar situations. Group, as opposed to individual, examination of issues often reveals a wider range of options for addressing those issues and results in better solutions.

Leadership skills, like all skills, can improve over time. Therefore, the Secretary considers progressive levels of leadership training programs, such as courses for new directors, programs for administrators and directors with various levels of experience, and seminars for seasoned administrators and directors, essential to meeting the diverse needs of VR administrators and directors.

The Secretary has determined that it is in the best interest of the State VR Services program to provide leadership skills training through one national institute. Having one institute lends consistency in the quality and content of training and better enables the Secretary to monitor the quality and relevance of the training. The Secretary intends to be involved with the grantee to provide direction and technical assistance on the content of the training.

To expand the funding base for the project and to encourage State agencies to contribute to the costs of training, the Secretary is proposing that participants be required to provide some level of contribution for training. The Secretary recognizes that State agencies have limited budgets and that some State policies limit the use of funds for tuition and related costs. However, the Secretary expects that a reasonable fee structure will not preclude the participation of State agencies.

In summary, the Secretary has determined that it is in the best interest of the State VR Services program to develop a leadership training program that focuses on leadership skills as applied to the unique issues facing State VR agencies in a peer setting. Progressive levels of training are needed to meet the varying needs of administrators and directors. One institute would ensure consistency in training and provide for better quality control. State agencies would be required to provide some degree of support to the program.

Proposed Priority

Under 34 CFR 75.105(c)(3) and section 302(a)(1) of the Rehabilitation Act of 1973, as amended, the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only applications that meet this absolute priority:

The Secretary proposes to fund one project to establish a National Rehabilitation Leadership Institute that will focus on developing the leadership skills of top-level managers and administrators in State VR agencies. The project must have plans for addressing the leadership needs in all VR agencies funded under the Act.

The project must employ a curriculum that focuses on the development of leadership skills and on the application of those skills to current challenges and issues in the VR program. The project must be capable of structuring leadership curricula around current VR issues of national significance, such as using VR standards and indicators to assess and improve agency performance, coordinating effectively with generic employment and training programs, and increasing client choice. Actual issues will be determined by the advisory committee (described later in this notice) and the Secretary.

The project must employ a curriculum that includes several levels of training to meet the needs of audiences ranging from new State administrators and directors to seasoned administrators and directors. The project's curriculum must include sequential courses that allow for repeated practice of newly learned skills over time, with performance feedback. The project must provide training in a peer setting.

The project must coordinate its training activities with activities conducted under the State VR In-Service Training program and the Rehabilitation Continuing Education Program. These programs are also charged with improving the leadership skills of State agency personnel. Therefore, collaboration and coordination are necessary.

The project must establish an advisory committee that includes RSA central and regional office representatives, representatives of State VR agency administrators, rehabilitation counselors, VR clients, other educators and trainers of VR personnel, and others as determined to be appropriate by the grantee and RSA. This committee must provide substantial input on and direction to the training curriculum, including the specific VR issues to be incorporated.

The project must include an evaluation component based upon clear, specific performance and outcome measures. The results must be reported in its annual progress report.

The project must provide for some degree of participant contribution to training costs.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 3423, Mary Switzer Building, 330 C Street S.W., Washington, D.C., between the hours of 8:00 a.m. and 3:30 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations: 34 CFR Parts 385 and 390.

Authority: 29 U.S.C. 774.

(Catalog of Federal Domestic Assistance Number: 84.246D, Rehabilitation Short-Term Training)

Dated: May 15, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–13172 Filed 5–19–97; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
May 20, 1997

Part IV

The President

Executive Order 13046—Further Amendment to Executive Order 12975, Extension of the National Bioethics Advisory Commission

Federal Register
Vol. 62, No. 97
Tuesday, May 20, 1997

Presidential Documents

Title 3—

The President

Executive Order 13046 of May 16, 1997

Further Amendment to Executive Order 12975 of May 16, 1997, Extension of the National Bioethics Advisory Commission

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to extend the term of the National Bioethics Advisory Commission, it is hereby ordered that section 7(b) of Executive Order 12975 further is amended to read, "NBAC shall terminate on October 3, 1999, unless extended by the President prior to that date."

William J. Clinton

THE WHITE HOUSE,
May 16, 1997.

[FR Doc. 97–13450
Filed 5–19–97; 11:02 am]
Billing code 3195–01–P

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