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Contents

Federal Register

Vol. 64, No. 172

Tuesday, September 7, 1999

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 64, No. 172
Tuesday, September 7, 1999

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–371]

Realignment of Federal Airway; Rochester, MN

AGENCY: Federal Aviation Administration (FAA) DOT.
ACTION: Final rule.

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

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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

SUPPLEMENTARY INFORMATION:

Background

As a result of an airspace review, on January 25, 1999, the FAA proposed to amend 14 CFR part 71 to realign V–411 in the vicinity of Rochester, MN (64 FR 3665). The proposal was in support of a realignment of several STAR, which in turn required the modification of V–411 in the vicinity of Rochester, MN.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) realign V–411 in the vicinity of Rochester, MN. The FAA is taking this action due to the realignment of several STAR, which necessitates the modification of V–411 by 4 degrees. This action will enhance the management of air traffic operations, and allow for better utilization of navigable airspace in the vicinity of the Rochester, MN, area.

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010—VOR Federal Airways

* * * * *

V–411 [Revised]

From Lone Rock, WI; via Waukon, IA; Rochester, MN; INT Rochester 315° and Farmington, MN, 184° radials; Farmington.

* * * * *

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

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–23155 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Fedeal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–49]

Realignment of Federal Airway; Columbus, NE

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Final rule.

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

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

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

SUPPLEMENTARY INFORMATION:

Background

As a result of an airspace review, the FAA determined that a segment of V–

220, south of Columbus, NE, was not required for aircraft operations and should be deleted from the National Airspace System. On January 25, 1999, the FAA proposed to amend 14 CFR part 71 to realign V–220 in the vicinity of Columbus, NE (64 FR 3664).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, this amendment is the same as that proposed in the notice.

The Rule

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

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

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * * *

V–220 [Revised]

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

* * * * * *

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

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 99–23156 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 113, 151, and 178

[T.D. 99–67]

RIN 1515–AB60

Accreditation of Commercial Testing Laboratories; Approval of Commercial Gaugers

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations relating to the commercial testing and gauging of imported merchandise, pursuant to Customs modernization provisions of the North American Free Trade Agreement Implementation Act. The regulations revise the general procedures for the accreditation/reaccreditation of commercial laboratories, the approval/reapproval of commercial gaugers, and the suspension and revocation of such accreditations/approvals. Further, the regulations provide that Customs will charge such laboratories/gaugers to accredit/approve and periodically reaccredit/reapprove their commercial services pursuant to a reimbursable fee schedule, and make provision for the imposition of monetary penalties for failure to adhere to any of the provisions applicable to the examination, sampling, and testing, or gauging of imported merchandise.

EFFECTIVE DATE: October 7, 1999.

FOR FURTHER INFORMATION CONTACT: Ira Reese, Laboratories and Scientific Services, (202) 927–1060; or Marcelino Borges, Laboratories and Scientific Services, (202) 927–1137.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, the United States enacted the North American Free Trade Agreement Implementation Act (the Act), Pub.L. 103–182, 107 Stat. 2057. Title VI of the Act contains provisions pertaining to Customs Modernization (107 Stat. 2170); section 613 of Subtitle A to Title VI amends section 499 of the Tariff Act of 1930 (19 U.S.C. 1499), which provides Customs with the authority to conduct examinations and detain imported merchandise.

The Commercial Laboratory/Gauger Testing Provisions of Section 613

The provisions of section 613, among other things, codified Customs regulations and administrative guidelines concerning the use of commercial laboratories and gaugers by adding a new paragraph (b) to section 499 (19 U.S.C. 1499(b)). Regarding the accreditation/approval aspects of commercial laboratories/gaugers, the provisions of new paragraph (b) authorize Customs to:

(1) set procedures for the accreditation of commercial laboratories in the United States, which may be used to perform tests relating to the admissibility, quantity, composition, or characteristics of imported merchandise, and the approval of commercial gaugers in the United States, which may be used to perform tests to establish the quantities of imported merchandise;

(2) impose reasonable charges for such accreditations/approvals and periodic reaccreditations/reapprovals; and

(3) establish the conditions regarding the suspension and revocation of such accreditations and approvals, which may include the imposition of monetary

penalties not to exceed $100,000, in addition to penalties for any loss of revenue, in appropriate cases.

Regarding the testing/gauging aspects of commercial laboratories/gaugers, new paragraph (b) further provides that:

(1) in the absence of Customs testing, Customs will accept analysis and quantity results from Customs-accredited laboratories and Customs-approved gaugers; however, this circumstance does not limit or otherwise preclude Customs or any other Federal agency from independently testing, analyzing, or quantifying any sample or merchandise;

(2) testing procedures and methodologies will be made available upon request to any person, except when they are proprietary to the holder of a copyright or patent or developed by Customs for enforcement purposes; information resulting from any Customs testing will be made available to the importer of record and any agents thereof, except when the information meets the above specified exclusions from disclosure; and

(3) laboratories/gaugers may seek judicial review of any final Customs decision that adversely affects their accreditation/approval, *i.e.*, denial, suspension. or revocation, or that imposes a monetary penalty, by commencing an action within 60 days of such decision in the Court of International Trade.

New paragraph (b) (set forth as a note to 19 U.S.C. 1499) also provides that commercial laboratories/gaugers that had already been accredited/approved by Customs may continue the accredited/approved activities without having to seek accreditation/approval under the new statute but that such facilities are subject to the new statutory and regulatory requirements for reaccreditation/reapproval.

On June 9, 1998, Customs published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (63 FR 31385) that proposed to amend the Customs Regulations relating to the commercial testing and gauging of imported merchandise, pursuant to Customs modernization provisions of the North American Free Trade Agreement Implementation Act (19 U.S.C. 1499(b)), and solicited comments in these matters. The comment period closed August 10, 1998; seven comments were received. The comments and Customs responses are set forth below.

Analysis of Comments

Expansion of Program

Comment: Three commenters recommended against the expansion of the current program.

Customs Response: Prior to enactment of the Act, Customs regulations and administrative guidelines concerning the use of commercial laboratories and gaugers only allowed for the accreditation of commercial laboratories and the approval of commercial gaugers to perform selected tests on certain imported merchandise. The provisions of the Act authorizing the establishment of regulations pertaining to testing laboratories (19 U.S.C. 1499(b)) provide that accredited private laboratories may be used to perform tests "that would otherwise be performed by Customs laboratories." Clearly, by this language Congress intended that the Customs laboratory accreditation program be extended to include the testing of many more products.

Accordingly, no change to the scope of the regulatory amendments will be made based on these comments.

Lack of Third-Party Accreditation/ Approval Entities

Comment: Two commenters, both independent accreditation bodies acknowledging Congress' intention in the Act to expand the existing commercial laboratory accreditation program, suggested that Customs could benefit from making use of existing accreditation programs and urged Customs to reconsider expansion of its program to rely on such programs. The commenters suggested that Customs shift from an "administration" role to an "oversight" role.

Customs Response: Customs is not against third-party accreditation. However, Customs believes it is best positioned to do the accrediting of laboratories in the expanded program. Although Customs may consider third-party accreditation in the future, we note that our current decision not to use a third-body accreditation organization is predicated on several factors including the following:

A. As a public organization, Customs can keep the program costs to a minimum while meeting all of our technical and law enforcement needs;

B. Customs has 20+ years experience in successfully running these types of programs; and

C. Customs interests and determinations go beyond those of other accrediting bodies, to include:

1. The financial independence of the laboratory/gauger;

2. Background investigations of the applicant;

3. Ability to do the extremely broad range of testing required by Customs; and

4. Ability to assist gaugers and laboratories using the Informed Compliance process.

To transfer these interests and concerns to a third body would require time and coordination with a third body organization that could be better used by Customs in the actual accreditation/ approval process.

Accordingly, no change to the regulatory amendments will be made based on these comments.

Methodology

Comment: One commenter expressed concern about Customs specifying which testing methods a laboratory can use and recommends industry input prior to the establishment of such testing requirements.

Customs Response: Although Customs has already approved certain testing methods and designated them for use in Commodity Group Brochures and the U.S. Customs Laboratory Methods Manual, if a laboratory seeking accreditation/reaccreditation believes that other testing methods are more appropriate than those testing methods designated by Customs, then, under the provisions of § 151.12(e), the laboratory can submit to the Executive Director with its application the testing method(s) it believes is more appropriate. Such alternative methods will be considered and approved on a case-by-case basis. (Note that this same latitude in designating approved measurement procedures is afforded gaugers in § 151.13(c).)

Since, as proposed, the regulations provide that commercial laboratories may seek approval of testing methods that they believe are appropriate, no change to the regulatory amendments will be made based on this comment. However, because the proposed laboratory regulations (the gauger regulations are not affected, see discussion below) did not reference the U.S. Customs Laboratory Methods Manual as a source containing testing methods approved by Customs, proposed § 151.12(a) is revised to include this reference as a source of appropriate testing methods and to note its availability on the Internet at Customs' Web Site, discussed below.

Burden of Five (5)-Day Notification in General; Notification of Equipment, etc. Changes in Particular

Comment: One commenter felt that the five (5)-day notification requirement

pertaining to changes in legal name, address, etc., was burdensome, especially for such items as staffing, equipment, and instruments, and suggested that Customs institute a semi-annual notification requirement.

Customs Response: Customs agrees that there is no need to require the reporting of "managerial or professional or executive staff" and "facilities, instruments, or equipment, etc." and is removing that requirement by revising the provisions of proposed § 151.12(c)(6) (and the parallel provision for gaugers at § 151.13(b)(6)). However, Customs will retain the five (5)-day notification requirement pertaining to changes in legal name, address, etc., as these items are substantive changes that affect the accreditation/approval of the facility and Customs must be able to maintain accurate records.

Proficiency Training

Comment: One commenter, while supporting the need for proficiency testing, questioned the need for Customs to develop its own program. This commenter opined that industrial programs, such as the American Society for Testing and Materials (ASTM) Laboratory Cross Check Program, are already available, of proven effect and efficiency, and should be allowed to suffice.

Customs Response: Customs agrees with this observation and has revised the provisions of proposed § 151.12(f)(3)(ii) and (iii) (and the applicable provision for gaugers at § 151.13(d)(3)(i)) to modify the requirement that proficiency testing through check samples "will" be required to read "may" be required. This change will permit accredited/approved laboratories/gaugers to participate in proficiency test programs developed by recognized industrial organizations. A facility's level of proficiency, as determined by such programs, can then be considered by Customs when Customs evaluates the facility for purposes of reaccreditation/reapproval. However, this change will not preclude Customs from developing its own check program if Customs determines that such a program is necessary.

Excessive Fee Structure; Organizations With Multiple Locations

Comment: Three commenters expressed concern about the fees associated with the accreditation process for laboratories. Two of these commenters stated that variable costs appeared to be high, especially for background investigations, and one of these commenters inquired how large commercial laboratory organizations with multiple locations would be handled.

Customs Response: Regarding the fee structure, the provisions of the Act were promulgated at the request of industry with the understanding that Customs would be given the authority to recover non-personnel costs. The costs contained in these regulations are consistent with that authority and are Customs best estimates of expenses. These program costs will be reevaluated periodically to see if the assumptions upon which they are based are correct.

Customs has reviewed the fee structure of third-party accreditation bodies, as well as those of other federal and state agencies that have the authority to charge fees, and found that the fees proposed are significantly lower than third-party accreditations and lower than most public-sector run programs. Customs identified certain indeterminate costs as variable costs in an effort to keep these costs as low as possible to the laboratory/gauger.

Regarding organizations with multiple locations, each site within an organization can separately apply for accreditation/approval or all sites within an organization can be designated in a single application. The choice will be with the applicant; however, all applicable variable (for technical inspections) and fixed (for administration) costs associated with processing the application submitted will be assessed for each site designated for accreditation/approval. As stated in the *Background* portion of the NPRM concerning "variable costs," Customs will endeavor to bundle these costs, which include background investigations, so that where these costs apply to more than one site, the costs will be fairly apportioned between applicants.

Accordingly, no change to the fee structure in the regulations will be made based on these comments.

Fee Structure Unfair to Small Entities

Comment: Three commenters objected to the fairness of the proposed fee structure as it will impact on very small laboratories and gaugers. These commenters argue that such gauger/laboratory facilities currently in the program should be exempt from any reapproval/reaccreditation fees because they will not see any benefit from the expansion. Further, these commenters argue that in order for an existing facility to "expand" its services, it will have to acquire expertise and equipment, both of which are expensive. These commenters conclude by stating that if Customs wants to recapture the expenses of an expanded program it should do so by charging those facilities that will benefit, and not those already in the program.

Customs Response: Customs is concerned about being fair to all parties in interest. However, paragraph (b) of section 613 of the Act mandates that while those laboratories/gaugers that were accredited/approved prior to December 8, 1993, need not reapply for initial accreditation/approval, such facilities will be subject to reaccreditation/reapproval under the applicable statute and implementing regulations. Accordingly, these grandfathered laboratory and gauger facilities are required to pay the fees that are associated with reaccreditation/reapproval.

Customs believes that the expansion of this program provides an opportunity for any laboratory to participate in the laboratory program on a level playing field. Any company will have the opportunity to look at their position and make a decision as to the degree to which it will participate in the laboratory program. Accordingly, Customs has structured the cost system to be commensurate with the level of laboratory participation in the program. The costs are being fairly leveled against all parties and will be reviewed annually to ensure that all costs are reasonable to the success of the program.

Accordingly, no change to the fee structure in the regulations will be made based on these comments.

Sample Retention Policy

Comment: One commenter stated that the one year sample retention period was too restrictive, and pointed out that special consideration should be made where the sample is perishable or hazardous. This commenter noted that typical storage retention periods in the inspection industry are from 45–90 days.

Customs Response: Regarding the one-year sample-retention period for non-perishable samples and remnants, Customs agrees that in the main this requirement may work a hardship on laboratories. Accordingly, Customs is lessening the retention period for non-perishable items to four months, unless the samples are the subject of litigation. Recently, Customs has authorized its own laboratories to shorten their sample-retention period from one year to four months, and believes that this same retention period could be allowed for commercial laboratories performing Customs testing services.

Regarding the subject of perishable samples, both in the *Background*

portion and the proposed *Amendments to the Regulations* portion of the NPRM (at § 151.12(j)(1)) it was stated that perishable samples and sample remnants could be disposed of more expeditiously, if done in accordance with acceptable laboratory procedures. With regard to hazardous materials, such samples are not considered comparable to perishable samples, and laboratories accredited to test such materials should know how to safely handle and store or dispose of these materials.

Accordingly, to make more clear that there is both a perishable goods and a non-perishable goods retention period, the provisions of proposed § 151.12(j)(1) are revised to separate the early disposal of perishable samples provision from the non-perishable samples provision. Further, the retention period for non-perishable goods is lessened from one year to four months, unless the merchandise sampled is the subject of litigation, in which case the laboratory will retain that sample merchandise until instructed by Customs that it can dispose of it.

Status of an Analysis Report Where Customs also Analyzes the Sample

Comment: One commenter questioned why an importer would use a commercial laboratory if Customs could also analyze shipments and simply ignore an accredited laboratory's report.

Customs Response: The Act provides that the establishment of a program for the accrediting/approving of commercial facilities to perform any of the functions currently performed by Customs facilities does not limit in any way or preclude Customs from independently testing or analyzing any sample or merchandise and basing administrative action upon Customs findings. For this reason, no change will be made to the regulations on this subject. However, Customs would like to make all concerned aware that Customs does not simply ignore the report of an accredited lab or an approved gauger in any situation. Where there is a contradiction between reports, Customs will review the situation in detail and if the report from the accredited lab or an approved gauger is found to be more accurate or controlling in the situation at hand, the Executive Director or his designee will authorize the use of the accredited lab or approved gauger report in lieu of Customs report.

Disclosure of Testing Procedures and Methods

Comment: One commenter stated that Customs should make the following two points clear concerning the disclosure/availability of testing procedures and methods:

(1) that the amount of laboratory analysis methods that cannot be released because of copyright/patent or law enforcement reasons is a very tiny fraction of Customs methods, and that all other methods, including methods to ascertain compliance with other agency requirements, etc., are available to the public at no charge; and

(2) that copies of U.S. Customs lab reports and worksheets are not subject to the Freedom of Information Act (FOIA), and that such lab reports are available free of charge and the associated worksheets are available for a flat fee of $ 10.

Customs Response: Regarding the commenter's first contention concerning the disclosure/availability of laboratory analysis methods, Customs generally agrees. Customs reiterates, however, that there are some laboratory analysis methods that are confidential because of enforcement concerns or because the methods are patented or copyrighted. Regarding the public availability of laboratory analysis methods at no charge, the commenter is correct. As indicated in the NPRM and previously in this document, a listing of the methods in the U.S. Customs Laboratory Methods Manual is available at the Customs Web Site on the Internet (www.customs.gov) and a description of those methods, i.e., those prepared by public sources such as Customs Laboratory personnel, will also be available at the Customs Web Site. But Customs points out that other methods that have been developed by private commercial organizations are not available from Customs. These other methods should be obtained directly from these commercial organizations.

Regarding the commenter's second contention concerning the free availability of U.S. Customs lab reports without resort to FOIA and the availability of associated worksheets for a flat fee without resort to the FOIA, Customs does release, free of charge, to the importer of record and their agents, including the customs broker, laboratory reports that do not include proprietary information or are not related to an investigation. While a FOIA request is not necessary, Customs still requires a written request from the importer of record or agent. When the requested Customs laboratory report is released, it does not include the report's associated worksheets or other supporting data.

Customs laboratory worksheets, including associated spectra, chromatograms, etc., if not containing proprietary or investigation-related information are also released by Customs upon written request by the importer of record and their agents, including the customs broker. However, Customs does assess a charge for this information based on the FOIA guidelines for the costs associated with searching and photocopying the requested materials. This material will not be released prior to the payment of all applicable fees.

No regulatory changes will be made based on these comments.

Subcontracting to another Customs-Accredited/Approved Site

Comment: Two commenters could not see the reason why one Customs-approved laboratory should not be able to subcontract to another Customs-approved laboratory. In this regard, one of these commenters inquired as what constituted subcontracting between companies owned or managed by the same parent organization (an issue visited briefly above under organizations with multiple locations).

Customs Response: Reconsidering this issue and reviewing the position contained in ASTM E548: Standard Guide for General Criteria Used for Evaluating Laboratory Competence (and Guide 25 of the International Organization for Standardization entitled General Requirements for the Competence of Calibration and Test Laboratories, a parallel publication; see discussion below), Customs agrees that subcontracting between Customs accredited/approved facilities should be allowed. Accordingly, the provisions of § 151.12(j)(5) (and the applicable gauger provisions at § 151.13(h)(4)) are revised to allow for subcontracting between Customs-accredited/approved facilities.

Limiting Gaugers Activities to Petroleum Products

Comment: One commenter inquired if the provisions of § 151.13(a) which state that commercial gaugers deal mainly with petroleum was meant to limit commercial gauger activities to just petroleum products.

Customs Response: No, this is not the case. Because gauging activities in general do include the measurement of animal and vegetable oils, as well as petroleum and petroleum products and bulk chemicals, proposed § 151.13(a) is revised to include these endeavors as well. Customs would like to clarify that through the application process, a gauger can list any area of gauging where a commercial activity may be feasible. Further, already approved gaugers can request expanded gauging opportunities at no additional cost to their reapproval.

Gauging Procedures

Comment: One commenter inquired when the Customs Commodity Group brochure dealing with gauging and measurement procedures would be published, so that he could review it.

Customs Response: The proposed regulatory text of § 151.13(c) providing for this was an error, as the definition of Commodity Group Brochure (provided at § 151.12(a)) clearly limits these booklets to laboratory testing procedures; Customs does not intend to prepare such a brochure for gauging activities. Accordingly, the regulatory text of proposed § 151.13(c) is revised to provide that approved gaugers must comply with appropriate procedures published by such organizations as the ASTM and the American Petroleum Institute (API), and other procedures approved in writing by the Executive Director.

Gauger Equipment Requirements in Closed-System Measurements

Comment: One commenter expressed industry concern about the equipment requirements contained at proposed § 151.13(d)(3)(ii)(A), which require that gaugers have all of the equipment and instruments needed to conduct approved services, as it relates to closed system measurement equipment. The commenter states that, unlike other aspects of the industry, there is no standardization of this equipment, even among different models made by the same manufacturer. The concern stems from the fact that many closed petroleum systems have unique piping and fittings that preclude a gauger from having all of the needed connectors to hook up a measurement system. The commenter feels that Customs should specify either minimum required equipment or fittings.

Customs Response: It is noted that the proposed regulations in this area are not different from the existing regulations under which the industry is currently operating, and no radical change is anticipated. Enumeration of minimum required equipment or fittings is not necessary because Customs allows this industry to establish its own requirements (this is another reason why there is no Commodity Group Brochure for gauging). Further, it should be noted that Customs works very positively with this industry, on a case-by-case basis, to permit the use of refinery or facility connectors when they are unique and unavailable to the general gauger industry. But where the situation becomes a routine responsibility of a gauger, Customs expects the gauger to own and calibrate all of the connectors and equipment that are added to a system in order to make the appropriate measurements.

Accordingly, no change to the regulations will be made based on this comment.

Notice of Proposed Assessment of Penalties

Comment: One commenter expressed concern that there was no notice or due process protection before the imposition of penalties, and argued that specific guidelines should be established so that variations in interpretation of these regulatory provisions at different ports could be avoided.

Customs Response: Regarding the due process rights of accredited laboratories/approved gaugers where penalties may be assessed, Customs agrees that advance notice (30 calendar days) of impending penalties should be clearly provided for in the regulations. Accordingly, the provisions of proposed §§ 151.12(k) (1) and (2) and 151.13(i) (1) and (2) are revised to clarify when notices of proposed penalties are issued and when final notices of penalties are issued.

Regarding the uniformity of the program, the fact that all decisions or orders imposing monetary penalties will be made by the Executive Director, Laboratories and Scientific Services, should ensure that the program will be administered in a uniform manner throughout the country. Further, Customs believes the appeal procedure provided for in the regulations enables affected laboratories/gaugers to challenge any decision of the Executive Director the facility believes to be unfair. The expanded program is designed to provide optimum uniformity with checks and balances at all decision points in order to protect the interests of the laboratory/gauger.

Penalties, Loss of Revenue, and Liquidated Damages

Comment: One commenter argued that Customs-accredited laboratories should not be subject to penalties, the recovery of "lost" revenue, and liquidated damages under the lab's bond, as the bond is a performance bond, not a revenue bond.

Customs Response: This comment concerns the provisions of § 151.12(k)(1)(iii), entitled "Assessment of monetary penalties." Customs believes that, perhaps, it did not clearly communicate that there is a distinction between the basis for monetary penalties and the basis for liquidated damages. There is a statutory basis for liability for monetary penalties and any loss of revenue in cases of intentional falsification of data in collusion with the importer (19 U.S.C. 1499(b)(1)(B)(i)) and there is a contractual basis for liability under the provisions of the Customs bond for liquidated damages. Customs is revising the third sentences of proposed § 151.12(k)(1)(iii) for laboratories and § 151.13(i)(1)(iii) for gaugers to distinguish between penalties/loss of revenue and liquidated damages.

The Terms "Current Approval" and "Future Regulation"

Comment: One commenter requested clarification of the difference between "current approval" and "future regulation" regarding reimbursable fees for accreditation/approval and periodic reaccreditation/reapproval.

Customs Response: The thrust of this comment is not clear; however, Customs will attempt to respond, based on the assumption that the comment pertains to already accredited/approved laboratories/gaugers. Both in the *Background* portion and the proposed *Amendments to the Regulations* portion of the Notice of Proposed Rulemaking at § 151.12(j)(1) it was stated that laboratories accredited and gaugers approved under Customs regulations prior to December 8, 1993 (the effective date of the Act) will not be required to pay applicable reaccreditation/reapproval fees until after the third year following the date these regulations become final. Thus, the new fees provided for in these regulations are not applicable to grandfathered laboratories/gaugers until their next scheduled inspection, based on their existing triennial inspection date.

To make this point as clear as possible, the provisions of proposed § 151.12(i) (and the parallel provision for gaugers at § 151.13(g)) are revised to state that accredited/approved facilities will have their status reevaluated on their next triennial inspection date which is no earlier than three years after the effective date of this regulation.

Small Business Administration

Comment: One commenter stated that there are many small businesses that will be impacted by the regulations and inquired if the Small Business Administration was notified of the proposed regulations.

Customs Response: Because Customs expects the number of accredited laboratories and approved gaugers to be small, Customs has certified that, if adopted, these regulations will not have a significant adverse economic impact on a substantial number of small entities. A statement to this effect was published in the NPRM. Customs has

not received any information during the comment period that would indicate any significant economic impact.

Movement of Goods in International Commerce

Comment: One commenter stated that the proposal failed to address that international business is done these days by the importers receiving "confirmation" and/or "production" samples of products before the shipments of the product are sent so that the importer is assured that what is being made and shipped is what was ordered per specifications. The apparent thrust of the comment goes to whether Customs labs will examine these "confirmation" or "production" samples rather than samples taken from part of the merchandise actually being imported.

Customs Response: As was stated in the *Background* portion of the NPRM, importers that choose to have merchandise tested by commercial facilities accredited/approved by Customs, must certify that the sample tested was taken from the merchandise in the entry, *i.e.,* from the importer's actual importations. Customs cannot allow for the testing of "confirmation" or "production" samples that are not in fact samples taken from part of the merchandise actually being imported. The Act clearly provides that the tests/measurements to be allowed by accredited/approved commercial facilities are those that will establish the admissibility, quantity, composition, or characteristics of imported merchandise, not merchandise that someday may be imported.

Accordingly, no change to the regulations will be made based on this comment.

Statement of Fee Schedule and a Clarification

The fee schedule set forth in the proposal is being adopted. The initial fixed fee schedules for accrediting/reaccrediting laboratories and approving/ reapproving gaugers are:

For Laboratories

General Accreditation Fee: $750
Additional Commodities Fee: $200
Laboratory Reaccreditation Fee: $375
Commodity Reaccreditation Fee: $150

For Gaugers

General Approval Fee: $400
Reapproval Fee: $200

The initial variable fee schedules for accrediting/reaccrediting laboratories and approving/reapproving gaugers are approximately $1,000 for travel per visit and $1,700 per background investigation.

Also, Customs wishes to note that laboratories/gaugers may be accredited/approved in Puerto Rico, as the United States is defined to include Puerto Rico, *see,* 19 CFR 101.1, "Customs territory of the United States."

Other Changes to the Regulations

In addition to the changes to the proposed regulatory text identified and discussed above in connection with the public comments, Customs has made numerous editorial, nonsubstantive changes to the proposed text (in most cases involving wording, parallel construction, punctuation, or structure) in order to enhance the clarity, readability, and application of the regulatory texts. An example of an editorial change involves the grounds for nonselection/suspension, revocation, or assessment of a monetary penalty in §§ 151.12(g)(2)(ii) and 151.13(e)(2)(ii), and §§ 151.12(k)(1)(ii)(B) and 151.13(i)(1)(ii)(B). Because of the common elements in these four provisions, the language in all these provisions is aligned for purposes of consistency. Several other changes are being made as well; they are summarized below.

Section 151.12(d)

Proposed § 151.12(d)(2) listed sixteen (16) commodity groups for which accreditation could be sought without special permission from the Executive Director. However, for ease of reference it has been decided to merge the commodity group of Wood and Articles of Wood with the commodity group of botanical identification. Accordingly, the final text of this section is revised to list only fifteen (15) commodity groups.

Section 151.12(f)

Proposed § 151.12(f)(3) provided that Customs evaluation of an applicant's professional abilities will be in accordance with the general criteria contained in the ASTM E548: Standard Guide for General Criteria Used for Evaluating Laboratory Competence. Because many Laboratories follow the ISO/IEC Guide 25—General Requirements for the Competence of Calibration and Testing Laboratories, the final text of § 151.12(f) is revised to include this publication as well.

Sections 151.12(j) and 151.13(h)

Proposed § 151.12(j)(3)(F) (and the parallel provision applicable to gaugers at proposed § 151.13(h)(2)(v)(F)) provided that reports must include the signature of the person accepting technical responsibility for the report. Because signatures are frequently illegible, Customs has decided to require the typed name of the person signing the report. Accordingly, these two provisions are revised to add the additional requirement of the typed name of the person signing the report.

Sections 151.13(c)

The proposed heading for § 151.13(c) denominated both gauging and measurement as procedures, which might cause some applicants to believe that there are two separate procedures. Accordingly, the reference to gauging is removed from the heading for this section.

Conclusion

After careful consideration of all the comments received and further review of the matter, Customs has decided to adopt the amendments to part 151 of the Customs Regulations as a final rule with the modifications and changes discussed above and as set forth below.

To reflect the paperwork requirements contained at §§ 151.12(f) and 151.13(d), part 178 of the Customs Regulations is revised to account for the separate application data required for laboratory accreditation and gauger approval.

The Regulatory Flexibility Act, and Executive Order 12866

Because the number of accredited laboratories and approved gaugers is expected to be small, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the amendments will not have a significant adverse economic impact on a substantial number of small entities. Accordingly, the amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. This amendment does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1515–0155. 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 control number assigned by OMB.

The collections of information in this final rule are in §§ 151.12(e) and 151.13(c). The information is required so that Customs can make a determination as to which applicants

are competent to receive or maintain accreditation/approval credentials to test/measure imported merchandise. The information will be used to process those applications submitted for Customs accreditation/approval. The likely respondents are individuals and commercial organizations who either analyze merchandise or measure, gauge, or sample merchandise.

The estimated average burden associated with the collection of information in this final rule is five hours per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Information Services Group, Office of Finance, 1300 Pennsylvania Ave., N.W., Washington, D.C. 20229; and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

Drafting Information

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, Office of Regulations and Rulings. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 113

Bonds, Customs duties and inspection, Exports, Freight, Imports, Reporting and recordkeeping requirements.

19 CFR Part 151

Administrative practice and procedure, Courts, Customs duties and inspection, Examination, Fees assessment, Gaugers, Imports, Laboratories, Licensing, Penalties, Reporting and recordkeeping requirements, Sampling and testing.

19 CFR Part 178

Administrative practice and procedure, Collections of information, Exports, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated above, parts 113, 151, and 178 of the Customs Regulations (19 CFR parts 113, 151, and 178) are amended as set forth below:

PART 113—CUSTOMS BONDS

1. The general authority citation for part 113 continues to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

§ 113.67 [Amended]

2. Section 113.67 is amended as follows:

a. Paragraph (a)(1)(ii) is amended by removing the words "terms of the Commercial Gauger Agreement [see § 151.13(b)(9)] and by the"; and by removing the citations "§§ 151.13 and 151.14" and adding, in their place, the citation "§ 151.13(b)".

b. Paragraph (b)(1)(ii) is amended by removing the words "terms of the Commercial Laboratory Agreement [see § 151.13(b)(9)] and by the"; and by removing the citation "§ 151.13" and adding, in its place, the citation "§ 151.12(c)".

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The general authority citation for part 151 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 20 and 21, Harmonized Tariff Schedule of the United States (HTSUS)), 1624. Subpart A also issued under 19 U.S.C. 1499.

* * * * *

2. In subpart A, § 151.12 is added to read as follows:

§ 151.12 Accreditation of commercial laboratories.

This section sets forth the requirements for commercial laboratories to obtain accreditation by Customs for the testing of certain commodities, and explains the operation of such accredited laboratories. This section also provides for the imposition of accreditation and reaccreditation fees, sets forth grounds for the suspension and revocation of accreditation, and provides for the imposition of a monetary penalty for an accredited commercial laboratory that fails to adhere to the provisions of this section.

(a) *Definitions.* For purposes of this section, the following words and phrases have the meanings indicated:

Analysis record. An "analysis record" is a compilation of all documents which have been generated during the course of analysis of a particular sample which, under normal circumstances, may include, both in paper and electronic-form, such documents as work sheets, notes, associated spectra (both spectra of the actual product and any standard spectra used for comparison), photographs and microphotographs, and the laboratory report.

Assistant Commissioner. In §§ 151.12 and 151.13, references to the "Assistant Commissioner" mean the Assistant Commissioner, Office of Field Operations, located in Washington, D.C.

Check samples. "Check samples" are samples which have been distributed by Customs to accredited laboratories to test their proficiency in a certain area of accreditation.

Commodity Group Brochure. A "Commodity Group Brochure" is a booklet which contains a listing of laboratory methods which commercial laboratories are required to have the capability to perform to qualify for Customs-accreditation in a particular commodity group. The brochures and the U.S. Customs Laboratory Methods Manual will specify the particular laboratory testing methods required for particular commodity groups, unless written permission from the Executive Director is given to use an alternate method. Procedures required by the Executive Director may reference applicable general industry testing standards, published by such organizations as the American Society for Testing and Materials (ASTM) and the American Petroleum Institute (API). Commodity Group Brochures and a listing of the methods found in the U.S. Customs Laboratory Methods Manual are available from the U.S. Customs Service, Attention: Executive Director, Laboratories and Scientific Services, Washington, D.C. 20229 and can also be found on the Customs Internet Web Site: www.customs.gov.

Executive Director. In §§ 151.12 and 151.13, references to the "Executive Director" mean the Executive Director, Laboratories and Scientific Services, located in Washington, D.C.

(b) *What is a "Customs-accredited laboratory"?* "Commercial laboratories" are individuals and commercial organizations that analyze merchandise, *i.e.*, determine its composition and/or characteristics, through laboratory analysis. A "Customs-accredited laboratory" is a commercial laboratory, within the United States, that has demonstrated, to the satisfaction of the Executive Director, pursuant to this section, the capability to perform analysis of certain commodities to determine elements relating to the admissibility, quantity, composition, or characteristics of imported merchandise. Customs accreditation extends only to the performance of such functions as are vested in, or delegated to, Customs.

(c) *What are the obligations of a Customs-accredited laboratory?* A commercial laboratory accredited by Customs agrees to the following conditions and requirements:

(1) To comply with the requirements of part 151, Customs Regulations (19 CFR part 151), and to conduct professional services in conformance

with approved standards and procedures, including procedures which may be required by the Commissioner of Customs or the Executive Director;

(2) To have no interest in or other connection with any business or other activity which might affect the unbiased performance of duties as a Customs-accredited laboratory. It is understood that this does not prohibit acceptance of the usual fees for professional services;

(3) To maintain the ability, *i.e.*, the instrumentation, equipment, qualified staff, facilities, etc., to perform the services for which the laboratory is accredited, and allow the Executive Director to evaluate that ability on a periodic basis by such means as on-site inspections, demonstrations of analysis procedures, reviews of submitted records, and proficiency testing through check samples;

(4) To retain those laboratory records beyond the five-year record-retention period and samples (see paragraph (j)(1) of this section) specified by Customs as necessary to address matters concerned in pending litigation, and, if laboratory operations or accreditation cease, to contact Customs immediately regarding the disposition of records/samples retained;

(5) To promptly investigate any circumstance which might affect the accuracy of work performed as an accredited laboratory, to correct the situation immediately, and to notify both the port director and the Executive Director of such matters, their consequences, and any corrective action taken or that needs to be taken; and

(6) To immediately notify both the port director and the Executive Director of any attempt to impede, influence, or coerce laboratory personnel in the performance of their duties, or of any decision to terminate laboratory operations or accredited status. Further, within 5 days of any changes involving legal name, address, ownership, parent-subsidiary relationships, bond, other offices or sites, or approved signatories to notify the Executive Director by certified mail.

(d) *What are the commodity groups for which accreditation may be sought?* (1) Commercial laboratories may apply for accreditation to perform tests for any of the commodity groups listed in paragraph (d)(2) of this section. Applicable test procedures are listed in Commodity Group Brochures and the U.S. Customs Laboratory Methods Manual. Application may be made for accreditation in more than one commodity group. At the discretion of the Executive Director accreditation may be granted for subgroups of tests within a commodity group or for commodity groups not specifically enumerated. Once accredited, a Customs-accredited laboratory may apply at any time to expand its accreditation, to add new testing sites, or increase the number of commodity groups or subgroups accredited.

(2) The commodity groups for which accreditation may be sought without special permission from the Executive Director are:

(i) Dairy and Chocolate Products entered under Chapters 4, 18, and 21 of the Harmonized Tariff Schedule of the United States (HTSUS);

(ii) Food and Food Products entered under Chapters 7–12, 15, 16, and 19–21, HTSUS;

(iii) Botanical Identification—materials and products entered under Chapters 14 and 44–46, HTSUS;

(iv) Sugar, Sugar Syrups, and Confectionery products entered under Chapter 17, HTSUS;

(v) Spirituous Beverages entered under Chapter 22, HTSUS;

(vi) Building Stone, Ceramics, Glassware, and Other Mineral Substances entered under Chapters 25 and 68–70, HTSUS;

(vii) Inorganic Materials, including Inorganic Compounds and Ores, entered under Chapters 26, 28, 31, and 36–38, HTSUS;

(viii) Petroleum and Petroleum Products entered under Chapters 27 and 29, HTSUS;

(ix) Organic Materials, including Intermediates and Pharmaceuticals, entered under Chapters 29, 30, 34, 35, and 38, HTSUS;

(x) Rubber, Plastics, Polymers, Pigments and Paints entered under Chapters 32, 39, and 40, HTSUS;

(xi) Essential Oils and Perfumes entered under Chapter 33, HTSUS;

(xii) Leather and Articles of Leather entered under Chapters 41 and 42, HTSUS;

(xiii) Paper and Paper Products entered under Chapters 47–49, HTSUS;

(xiv) Textiles and Related Products, including footwear and hats, entered under Chapters 50–67, HTSUS; and,

(xv) Metals and Alloys entered under Chapters 72–83, HTSUS.

(e) *What are the approved methods of analysis?* Customs-accredited laboratories must follow the general or specific testing methods set forth in Commodity Group Brochures and the U.S. Customs Laboratory Methods Manual in the testing of designated commodities, unless the Executive Director gives written permission to use an alternate method. Alternative methods will be considered and approved on a case-by-case basis.

(f) *How would a commercial laboratory become a Customs-accredited laboratory?* (1) *What should an application contain?* An application for Customs accreditation must contain the following information:

(i) The applicant's legal name and the address of its principal place of business and any other facility out of which it will work;

(ii) Detailed statements of ownership and any partnerships, parent-subsidiary relationships, or affiliations with any other domestic or foreign organizations, including, but not limited to, importers, other commercial laboratories, producers, refiners, Customs brokers, or carriers;

(iii) A statement of financial condition;

(iv) If a corporation, a copy of the articles of incorporation and the names of all officers and directors;

(v) The names, titles, and qualifications of each person who will be authorized to sign or approve analysis reports on behalf of the commercial laboratory;

(vi) A complete description of the applicant's facilities, instruments, and equipment;

(vii) An express agreement that if notified by Customs of pending accreditation to execute a bond in accordance with part 113, Customs Regulations (19 CFR part 113), and submit it to the Customs port nearest to the applicant's main office. (The limits of liability on the bond will be established by the Customs port in consultation with the Executive Director. In order to retain Customs accreditation, the laboratory must maintain an adequate bond, as determined by the port director);

(viii) A listing of each commodity group for which accreditation is being sought and, if methods are being submitted for approval which are not specifically provided for in a Commodity Group Brochure and the U.S. Customs Laboratory Methods Manual, a listing of such methods;

(ix) A listing by commodity group of each method according to its Customs Laboratory Method Number for which the laboratory is seeking accreditation;

(x) An express agreement to be bound by the obligations contained in paragraph (c) of this section; and,

(xi) A nonrefundable pre-payment equal to 50 percent of the fixed accreditation fee, as published in the **Federal Register** and Customs Bulletin, to cover preliminary processing costs. Further, the applicant agrees to pay Customs within 30 days of notification of preliminary accreditation the associated charges assessed for accreditation, i.e., those charges for actual travel and background

investigation costs, and the balance of the fixed accreditation fee.

(2) *Where should an application be sent?* A commercial laboratory seeking accreditation or an extension of an existing accreditation must send a letter of application to the U.S. Customs Service, Attention: Executive Director, Laboratories & Scientific Services, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

(3) *How will an application be reviewed?*

(i) *Physical plant and management system.* The facility of the applicant will be inspected to ensure that it is properly equipped to perform the necessary tests and that staff personnel are capable of performing required tests. Customs evaluation of an applicant's professional abilities will be in accordance with the general criteria contained in either the American Society for Testing and Materials (ASTM) E548 (Standard Guide for General Criteria Used for Evaluating Laboratory Competence) or the ISO/IEC Guide 25 (General Requirements for the Competence of Calibration and Testing Laboratories). This review will ascertain the laboratory's ability to manage and control the acquisition of technical data. The review will be performed at the time of initial application and upon reaccreditation at three-year intervals.

(ii) *Ability to perform tests on specified commodity groups.* For each commodity group applied for, the applicant will undergo a separate review of testing capabilities. The specific accreditation will be based on the laboratory's ability to perform the tests required for that commodity group. This will include the qualifications of the technical personnel in this field and the instrument availability required by the test methods. Maintenance of accreditation will be ongoing and may require the submission of test results on periodic check samples. The criteria for acceptance will be based on the laboratory's ability to produce a work product that assists in the proper classification and entry of imported merchandise.

(iii) *Determination of competence.* The Executive Director will determine the applicant's overall competence, independence, and character by conducting on-site inspections, which may include demonstrations by the applicant of analysis procedures and a review of analysis records submitted, and background investigations. The Executive Director may also conduct proficiency testing through check samples.

(iv) *Evaluation of technical and operational requirements.* Customs will determine whether the following technical and operational requirements are met:

(A) *Equipment.* The laboratory must be equipped with all of the instruments and equipment needed to conduct the tests for which it is accredited. The laboratory must ensure that all instruments and equipment are properly calibrated, checked, and maintained.

(B) *Facilities.* The laboratory must have, at a minimum, adequate space, lighting, and environmental controls to ensure compliance with the conditions prescribed for appropriate test procedures.

(C) *Personnel.* The laboratory must be staffed with persons having the necessary education, training, knowledge, and experience for their assigned functions (e.g., maintaining equipment, calibrating instruments, performing laboratory analyses, evaluating analytical results, and signing analysis reports on behalf of the laboratory). In general, each technical staff member should hold, at a minimum, a bachelor's degree in science or have two years related experience in an analytical laboratory.

(g) *How will an applicant be notified concerning accreditation?*

(1) *Notice of approval or nonselection.* When Customs evaluation of a laboratory's credentials is completed, the Executive Director will notify the laboratory in writing of its preliminary approval or nonselection. (Final approval determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable accreditation fee). Notices of nonselection will state the specific grounds for the determination. All final notices of accreditation, reaccreditation, or extension of existing Customs accreditation will be published in the **Federal Register** and Customs Bulletin.

(2) *Grounds for nonselection.* The Executive Director may deny a laboratory's application for any of the following reasons:

(i) The application contains false or misleading information concerning a material fact;

(ii) The laboratory, a principal of the laboratory, or a person the Executive Director determines is exercising substantial ownership or control over the laboratory operation is indicted for, convicted of, or has committed acts which would:

(A) Under United States federal or state law, constitute a felony or misdemeanor involving misstatements, fraud, or a theft-related offense; or

(B) Reflect adversely on the business integrity of the applicant;

(iii) A determination is made that the laboratory-applicant does not possess the technical capability, have adequate facilities, or management to perform the approved methods of analysis for Customs purposes;

(iv) A determination is made that the laboratory has submitted false reports or statements concerning the sampling of merchandise, or that the applicant was subject to sanctions by state, local, or professional administrative bodies for such conduct;

(v) Nonpayment of assessed charges and the balance of the fixed accreditation fee; or

(vi) Failure to execute a bond in accordance with part 113 of this chapter.

(3) *Adverse accreditation decisions; appeal procedures.*

(i) *Preliminary notice.* A laboratory which is not selected for accreditation will be sent a preliminary notice of action which states the specific grounds for nonselection and advises that the laboratory may file a response with the Executive Director within 30 calendar days of receipt of the preliminary notice addressing the grounds for nonselection.

(ii) *Final notice.* If the laboratory does not respond to the preliminary notice, a final notice of nonselection will be issued by the Executive Director after 30 calendar days of receipt of the preliminary notice which states the specific grounds for the nonselection and advises that the laboratory may administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of receipt of the final notice. If the laboratory files a timely response, then the Executive Director, within 30 calendar days of receipt of the response, will issue a final determination regarding the laboratory's accreditation. If this final determination is adverse to the laboratory, then the final notice of nonselection will state the specific grounds for nonselection and advise the laboratory that it may administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of receipt of the final notice.

(iii) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of receipt of the appeal. If the appeal decision is adverse to the laboratory, then the laboratory may choose to pursue one of the following two options:

(A) Submit a new application for accreditation to the Executive Director after waiting 90 days from the date of the Executive Director's last decision; or

(B) File an action with the Court of International Trade, pursuant to chapter

169 of title 28, United States Code, within 60 days after the issuance of the Executive Director's final decision.

(h) *What are the accreditation/reaccreditation fee requirements?*

(1) *In general.* A fixed fee, representing Customs administrative overhead expense, will be assessed for each application for accreditation or reaccreditation. In addition, associated assessments, representing the actual costs associated with travel and per diem of Customs employees related to verification of application criteria and background investigations will be charged. The combination of the fixed fee and associated assessments represent reimbursement to Customs for costs related to accreditation and reaccreditation. The fixed fee will be published in the Customs Bulletin and the **Federal Register**. Based on a review of the actual costs associated with the program, the fixed fee may be adjusted periodically; any changes will be published in the Customs Bulletin and the **Federal Register**.

(i) *Accreditation fees.* A nonrefundable pre-payment equal to 50 percent of the fixed accreditation fee to cover preliminary processing costs must accompany each application for accreditation. Before a laboratory will be accredited, it must remit to Customs, at the address specified in the billing, within the 30 day billing period, the associated charges assessed for the accreditation and the balance of the fixed accreditation fee.

(ii) *Reaccreditation fees.* Before a laboratory will be reaccredited, it must submit to Customs, at the billing address specified, within the 30 day billing period the fixed reaccreditation fee.

(2) *Disputes.* In the event a laboratory disputes the charges assessed for travel and per diem costs associated with scheduled inspection visits, it may file an appeal within 30 calendar days of the date of the assessment with the Executive Director. The appeal letter must specify which charges are in dispute and provide such supporting documentation as may be available for each allegation. The Executive Director will make findings of fact concerning the merits of an appeal and communicate the agency decision to the laboratory in writing within 30 calendar days of the date of the appeal.

(i) *Can existing Customs-accredited laboratories continue to operate?* Commercial laboratories accredited by the Executive Director prior to December 8, 1993, will retain that accreditation under these regulations provided they conduct their business in a manner consistent with the administrative portions of this section. This paragraph does not pertain to any laboratory which has had its accreditation suspended or revoked. Laboratories which have had their accreditations continued under this section will have their status reevaluated on their next triennial inspection date which is no earlier than three years after the effective date of this regulation. At the time of reaccreditation, these laboratories must meet the requirements of this section and remit to Customs, at the address specified in the billing, within the 30 day billing period, the fixed reaccreditation fee. Failure to meet these requirements will result in revocation or suspension of the accreditation.

(j) *How will Customs-accredited laboratories operate?*

(1) *Samples for testing.* Upon request by the importer of record of merchandise, the port director will release a representative sample of the merchandise for testing by a Customs-accredited laboratory at the expense of the importer. Under Customs supervision, the sample will be split into two essentially equal parts and given to the Customs-accredited laboratory. One portion of the sample may be used by the Customs-accredited laboratory for its testing. The other portion must be retained by the laboratory, under appropriate storage conditions, for Customs use, as necessary, unless Customs requires other specific procedures. Upon request, the sample portion reserved for Customs purposes must be surrendered to Customs.

(i) *Retention of non-perishable samples.* Non-perishable samples reserved for Customs and sample remnants from any testing must be retained by the accredited laboratory for a period of four months from the date of the laboratory's final analysis report, unless other instructions are issued in writing by Customs. At the end of this retention time period, the accredited laboratory may dispose of the retained samples and sample remnants in a manner consistent with federal, state, and local statutes.

(ii) *Retention of perishable samples.* Perishable samples reserved for Customs and sample remnants from any testing can be disposed of more expeditiously than provided for at paragraph (j)(1)(i) of this section, if done in accordance with acceptable laboratory procedures, unless other instructions are issued in writing by Customs.

(2) *Reports.* (i) *Contents of reports.* Testing data must be obtained using methods approved by the Executive Director. The testing results from a Customs-accredited laboratory that are submitted by an importer of record with respect to merchandise in an entry, in the absence of testing conducted by Customs laboratories, will be accepted by Customs, provided that the importer of record certifies that the sample tested was taken from the merchandise in the entry and the report establishes elements relating to the admissibility, quantity, composition, or characteristics of the merchandise entered, as required by law.

(ii) *Status of commercial reports where Customs also tests merchandise.* Nothing in these regulations will preclude Customs from sampling and testing merchandise from a shipment which has been sampled and tested by a Customs-accredited laboratory at the request of an importer. In cases where a shipment has been analyzed by both Customs and a Customs-accredited laboratory, all Customs actions will be based upon the analysis provided by the Customs laboratory, unless the Executive Director advises otherwise. If Customs tests merchandise, it will release the results of its test to the importer of record or its agent upon request unless the testing information is proprietary to the holder of a copyright or patent, or developed by Customs for enforcement purposes.

(3) *Recordkeeping requirements.* Customs-accredited laboratories must maintain records of the type normally kept in the ordinary course of business in accordance with the provisions of this chapter and any other applicable provision of law, and make them available during normal business hours for Customs inspection. In addition, these laboratories must maintain all records necessary to permit the evaluation and verification of all Customs-related work, including, as appropriate, those described below. All records must be maintained for five years, unless the laboratory is notified in writing by Customs that a longer retention time is necessary for particular records. Electronic data storage and transmission may be approved by Customs.

(i) *Sample records.* Records for each sample tested for Customs purposes must be readily accessible and contain the following information:

(A) A unique identifying number;

(B) The date when the sample was received or taken;

(C) The identity of the commodity (*e.g.* crude oil);

(D) The name of the client;

(E) The source of the sample (*e.g.*, name of vessel, flight number of airline,

name of individual taking the sample); and

(F) If available, the Customs entry date, entry number, and port of entry and the names of the importer, exporter, manufacturer, and country-of-origin.

(ii) *Major equipment records.* Records for each major piece of equipment or instrument (including analytical balances) used in Customs-related work must identify the name and type of instrument, the manufacturer's name, the instrument's model and any serial numbers, and the occurrence of all servicing performed on the equipment or instrument, to include recalibration and any repair work, identifying who performed the service and when.

(iii) *Records of analytical procedures.* The Customs-accredited laboratory must maintain complete and up-to-date copies of all approved analytical procedures, calibration methods, etc., and must document the procedures each staff member is authorized to perform. These procedures must be readily available to appropriate staff.

(iv) *Laboratory analysis records.* The Customs-accredited laboratory must identify each analysis by sample record number (see paragraph (j)(3)(i) of this section) and must maintain all information or data (such as sample weights, temperatures, references to filed spectra, etc.) associated with each Customs-related laboratory analysis. Each analysis record must be dated and initialed or signed by the staff member(s) who did the work.

(v) *Laboratory analysis reports.* Each laboratory analysis report submitted to Customs must include:

(A) The name and address of the Customs-accredited laboratory;

(B) A description and identification of the sample, including its unique identifying number;

(C) The designations of each analysis procedure used;

(D) The analysis report itself (*i.e.*, the pertinent characteristics of the sample);

(E) The date of the report; and

(F) The typed name and signature of the person accepting technical responsibility for the analysis report (*i.e.*, an approved signatory).

(4) *Representation of Customs-accredited status.* Commercial laboratories accredited by Customs must limit statements or wording regarding their accreditation to an accurate description of the tests for the commodity group(s) for which accreditation has been obtained. Use of terms other than those appearing in the notice of accreditation (see paragraph (g) of this section) is prohibited.

(5) *Subcontracting prohibited.* Customs-accredited laboratories must not subcontract Customs-related analysis work to non Customs-accredited laboratories or non Customs-approved gaugers, but may subcontract to other facilities that are Customs-accredited/approved and in good standing.

(k) *How can a laboratory have its accreditation suspended or revoked or be required to pay a monetary penalty?*

(1) *Grounds for suspension, revocation, or assessment of a monetary penalty.* (i) *In general.* The Executive Director may immediately suspend or revoke a laboratory's accreditation only in cases where the laboratory's actions are intentional violations of any Customs law or when required by public health or safety. In other situations where the Executive Director has cause, the Executive Director will propose the suspension or revocation of a laboratory's accreditation or propose a monetary penalty and provide the laboratory with the opportunity to respond to the notice of proposed action.

(ii) *Specific grounds.* A laboratory's accreditation may be suspended or revoked, or a monetary penalty may be assessed because:

(A) The selection was obtained through fraud or the misstatement of a material fact by the laboratory;

(B) The laboratory, a principal of the laboratory, or a person the port director determines is exercising substantial ownership or control over the laboratory operation is indicted for, convicted of, or has committed acts which would: under United States federal or state law, constitute a felony or misdemeanor involving misstatements, fraud, or a theft-related offense; or reflect adversely on the business integrity of the applicant. In the absence of an indictment, conviction, or other legal process, the port director must have probable cause to believe the proscribed acts occurred;

(C) Staff laboratory personnel refuse or otherwise fail to follow any proper order of a Customs officer or any Customs order, rule, or regulation;

(D) The laboratory fails to operate in accordance with the obligations of paragraph (c) of this section;

(E) A determination is made that the laboratory is no longer technically or operationally proficient at performing the approved methods of analysis for Customs purposes;

(F) The laboratory fails to remit to Customs, at the billing address specified, within the 30 day billing period the associated charges assessed for the accreditation and the balance of the fixed accreditation fee;

(G) The laboratory fails to maintain its bond;

(H) The laboratory fails to remit to Customs, at the billing address specified, within the 30 day billing period, the fixed reaccreditation fee; or

(I) The laboratory fails to remit any monetary penalty assessed under this section.

(iii) *Assessment of monetary penalties.* The assessment of a monetary penalty under this section, may be in lieu of, or in addition to, a suspension or revocation of accreditation under this section. The monetary penalty may not exceed $100,000 per violation and will be assessed and administered pursuant to published guidelines. Any monetary penalty under this section can be in addition to the recovery of:

(A) Any loss of revenue, in cases where the laboratory intentionally falsified the analysis report in collusion with the importer, pursuant to 19 U.S.C. 1499(b)(1)(B)(i); or

(B) Liquidated damages assessed under the laboratory's Customs bond.

(2) *Notice.* When a decision to suspend or revoke accreditation, and/or assess a monetary penalty is made, the Executive Director will immediately notify the laboratory in writing of the decision, indicating whether the action is effective immediately or is proposed.

(i) *Immediate suspension or revocation.* Where the suspension or revocation of accreditation is immediate, the Executive Director will issue a notice of determination which will state the specific grounds for the immediate suspension or revocation and advise the laboratory that, in accordance with paragraph (k)(3) of this section, it may administratively appeal the determination to the Assistant Commissioner within 30 calendar days of the notice of determination. The laboratory may not perform any Customs-accredited functions during the appeal period.

(ii) *Proposed suspension, revocation, or assessment of monetary penalty.*

(A) *Preliminary notice.* Where the suspension or revocation of accreditation, and/or the assessment of a monetary penalty is proposed, the Executive Director will issue a preliminary notice of action which will state the specific grounds for the proposed action and advise the laboratory that it has 30 calendar days to respond. The laboratory may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The laboratory also may ask for a meeting with the Executive Director or his designee to discuss the proposed action. The laboratory may continue to perform

functions requiring Customs-accreditation during this 30-day period. If the laboratory does not respond to the preliminary notice, a notice of adverse determination, in accordance with paragraph (k)(2)(ii)(B) of this section, will be issued by the Executive Director after 30 calendar days of receipt of the preliminary notice. If the laboratory files a timely response, then the Executive Director, within 30 calendar days of receipt of the response, will issue a notice of determination. If this determination is adverse to the laboratory, a notice of adverse determination, in accordance with paragraph (k)(2)(ii)(B) of this section, will be issued by the Executive Director after 30 calendar days of receipt of the response.

(B) *Notice of adverse determination.* A notice of adverse determination will state the action being taken, specific grounds for the determination, and advise the laboratory that it may administratively appeal the adverse determination to the Assistant Commissioner, in accordance with paragraph (k)(3) of this section. The laboratory may not continue to perform any Customs-accredited functions upon receiving a notice of adverse determination that its accreditation has been suspended or revoked.

(3) *Appeal.* A Customs-accredited laboratory receiving an adverse determination from the Executive Director that its accreditation has been suspended or revoked, and/or that it has been assessed a monetary penalty may file an administrative appeal to the Assistant Commissioner within 30 calendar days of the notice of determination. If the laboratory does not file an administrative appeal, the determination made by the Executive Director in paragraph (k)(2) of this section will become a final agency decision which will be communicated to the laboratory by a notice of final action issued 30 days after the notice of determination. If the laboratory does file a timely appeal, then the Assistant Commissioner, within 30 calendar days of receipt of the appeal, will make a final agency decision regarding the laboratory's suspension or revocation of accreditation, and/or assessment of a monetary penalty. If the final agency decision is adverse to the laboratory, the decision will be communicated to the laboratory by a notice of final action. Any adverse final agency decision will be communicated to the public by a publication in the **Federal Register** and Customs Bulletin, giving the effective date, duration, and scope of the decision. Any notice of adverse final action communicated to a laboratory will state the action taken, the specific grounds for the action, and advise the laboratory that it may choose to :

(i) If suspended or revoked, submit a new application to the Executive Director after waiting 90 days from the date of the Executive Director's notice of final action; or

(ii) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days after the issuance of the Executive Director's notice of final action.

3. Section 151.13 is revised to read as follows:

§ 151.13 Approval of commercial gaugers.

This section sets forth the requirements for commercial gaugers to obtain approval by Customs for the measuring of certain merchandise, and explains the operation of such approved gaugers. This section also provides for the imposition of approval and reapproval fees, sets forth grounds for the suspension or revocation of approval, and provides for the imposition of a monetary penalty for an approved commercial gauger that fails to adhere to the provisions of this section.

(a) *What is a "Customs-approved gauger"?* "Commercial gaugers" are individuals and commercial organizations that measure, gauge, or sample merchandise (usually merchandise in bulk form) and who deal mainly with animal and vegetable oils, petroleum, petroleum products, and bulk chemicals. A "Customs-approved gauger" is a commercial concern, within the United States, that has demonstrated, to the satisfaction of the Executive Director (defined at § 151.12(a)), pursuant to this section, the capability to perform certain gauging and measurement procedures for certain commodities. Customs approval extends only to the performance of such functions as are vested in, or delegated to, Customs.

(b) *What are the obligations of a Customs-approved gauger?* A commercial gauger approved by Customs agrees to the following conditions and requirements:

(1) To comply with the requirements of part 151, Customs Regulations (19 CFR part 151), and to conduct professional services in conformance with approved standards and procedures, including procedures which may be required by the Commissioner of Customs or the Executive Director;

(2) To have no interest in or other connection with any business or other activity which might affect the unbiased performance of duties as a Customs-approved gauger. It is understood that this does not prohibit acceptance of the usual fees for professional services;

(3) To maintain the ability, *i.e.*, the instrumentation, equipment, qualified staff, facilities, etc., to perform the services for which the gauger is approved, and allow the Executive Director to evaluate that ability on a periodic basis by such means as on-site inspections, demonstrations of gauging procedures, and reviews of submitted records;

(4) To retain those gauger records beyond the five-year record-retention period specified by Customs as necessary to address matters concerned in pending litigation, and, if gauger operations or approval cease, to contact Customs immediately regarding the disposition of records retained;

(5) To promptly investigate any circumstance which might affect the accuracy of work performed as an approved gauger, to correct the situation immediately, and to notify both the port director and the Executive Director of such matters, their consequences, and any corrective action taken or that needs to be taken; and

(6) To immediately notify both the port director and the Executive Director of any attempt to impede, influence, or coerce gauger personnel in the performance of their duties, or of any decision to terminate gauger operations or approval status. Further, within 5 days of any changes involving legal name, address, ownership, parent-subsidiary relationships, bond, other offices or sites, or approved signatories to notify the Executive Director by certified mail.

(c) *What are the approved measurement procedures?* Customs-approved gaugers must comply with appropriate procedures published by such professional organizations as the American Society for Testing and Materials (ASTM) and the American Petroleum Institute (API), unless the Executive Director gives written permission to use an alternate method. Alternative methods will be considered and approved on a case-by-case basis.

(d) *How would a commercial gauger become a Customs-approved gauger?* (1) *What should an application contain?* An application for Customs approval must contain the following information:

(i) The applicant's legal name and the address of its principal place of business and any other facility out of which it will work;

(ii) Detailed statements of ownership and any partnerships, parent-subsidiary relationships, or affiliations with any other domestic or foreign organizations, including, but not limited to, importers,

producers, refiners, Customs brokers, or carriers;

(iii) A statement of financial condition;

(iv) If a corporation, a copy of the articles of incorporation and the names of all officers and directors;

(v) The names, titles, and qualifications of each person who will be authorized to sign or approve gauging reports on behalf of the commercial gauger;

(vi) A complete description of the applicant's facilities, instruments, and equipment;

(vii) An express agreement that if notified by Customs of pending approval to execute a bond in accordance with part 113, Customs Regulations (19 CFR part 113), and submit it to the Customs port nearest to the applicant's main office. (The limits of liability on the bond will be established by the Customs port in consultation with the Executive Director. In order to retain Customs approval, the gauger must maintain an adequate bond, as determined by the port director);

(viii) An express agreement to be bound by the obligations contained in paragraph (b) of this section; and,

(ix) A nonrefundable pre-payment equal to 50 percent of the fixed approval fee, as published in the **Federal Register** and Customs Bulletin, to cover preliminary processing costs. Further, the applicant agrees to pay Customs within 30 days of notification of preliminary approval the associated charges assessed for approval, *i.e.*, those charges for actual travel and background investigation costs, and the balance of the fixed approval fee.

(2) *Where should an application be sent?* A commercial gauger seeking approval or an extension of an existing approval must send a letter of application to the U.S. Customs Service, Attention: Executive Director, Laboratories & Scientific Services, 1300 Pennsylvania Ave., NW, Washington, D.C. 20229.

(3) *How will an application be reviewed?*

(i) *Determination of competence.* The Executive Director will determine the applicant's overall competence, independence, and character by conducting on-site inspections, which may include demonstrations by the applicant of gauging procedures and a review of records submitted, and background investigations. The Executive Director may also conduct proficiency testing through check samples.

(ii) *Evaluation of technical and operational requirements.* Customs will determine whether the following technical and operational requirements are met:

(A) *Equipment.* The facility must be equipped with all of the instruments and equipment needed to conduct approved services. The gauger must ensure that all instruments and equipment are properly calibrated, checked, and maintained.

(B) *Facilities.* The facility must have, at a minimum, adequate space, lighting, and environmental controls to ensure compliance with the conditions prescribed for appropriate measurements.

(C) *Personnel.* The facility must be staffed with persons having the necessary education, training, knowledge, and experience for their assigned functions (*e.g.*, maintaining equipment, calibrating instruments, performing gauging services, evaluating gauging results, and signing gauging reports on behalf of the commercial gauger). In general, each technical staff member should have, at a minimum, six months training and experience in gauging.

(e) *How will an applicant be notified concerning approval?*

(1) *Notice of approval or nonselection.* When Customs evaluation of a gauger's credentials is completed, the Executive Director will notify the gauger in writing of its preliminary approval or nonselection. (Final approval determinations will not be made until the applicant has satisfied all bond requirements and made payment on all assessed charges and the balance of the applicable accreditation fee). Notices of nonselection will state the specific grounds for the determination. All final notices of approval, reapproval, or extension of existing Customs approval will be published in the **Federal Register** and Customs Bulletin.

(2) *Grounds for nonselection.* The Executive Director may deny a gauger's application for any of the following reasons:

(i) The application contains false or misleading information concerning a material fact;

(ii) The gauger, a principal of the gauging facility, or a person the Executive Director determines is exercising substantial ownership or control over the gauger operation is indicted for, convicted of, or has committed acts which would:

(A) Under United States federal or state law, constitute a felony or misdemeanor involving misstatements, fraud, or a theft-related offense; or

(B) Reflect adversely on the business integrity of the applicant;

(iii) A determination is made that the gauger-applicant does not possess the technical capability, have adequate facilities, or management to perform the approved methods of measurement for Customs purposes;

(iv) A determination is made that the gauger has submitted false reports or statements concerning the measurement of merchandise, or that the applicant was subject to sanctions by state, local, or professional administrative bodies for such conduct;

(v) Nonpayment of assessed charges and the balance of the fixed approval fee; or

(vi) Failure to execute a bond in accordance with part 113 of this chapter.

(3) *Adverse approval decisions; appeal procedures.*—(i) *Preliminary notice.* A gauger which is not selected for approval will be sent a preliminary notice of action which states the specific grounds for nonselection and advises that the gauger may file a response with the Executive Director within 30 calendar days of receipt of the preliminary notice addressing the grounds for nonselection.

(ii) *Final notice.* If the gauger does not respond to the preliminary notice, a final notice of nonselection will be issued by the Executive Director after 30 calendar days of receipt of the preliminary notice which states the specific grounds for the nonselection and advises that the gauger may administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of receipt of the final notice. If the gauger files a timely response, then the Executive Director, within 30 calendar days of receipt of the response, will issue a final determination regarding the gauger's approval. If this final determination is adverse to the gauger, then the final notice of nonselection will state the specific grounds for nonselection and advise the gauger that it may administratively appeal the final notice of nonselection to the Assistant Commissioner within 30 calendar days of receipt of the final notice.

(iii) *Appeal decision.* The Assistant Commissioner will issue a decision on the appeal within 30 calendar days of receipt of the appeal. If the appeal decision is adverse to the gauger, then the gauger may choose to pursue one of the following two options:

(A) Submit a new application for approval to the Executive Director after waiting 90 days from the date of the Executive Director's last decision; or

(B) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code,

within 60 days after the issuance of the Executive Director's final decision.

(f) *What are the approval/reapproval fee requirements?*

(1) *In general.* A fixed fee, representing Customs administrative overhead expense, will be assessed for each application for approval or reapproval. In addition, associated assessments, representing the actual costs associated with travel and per diem of Customs employees related to verification of application criteria and background investigations will be charged. The combination of the fixed fee and associated assessments represent reimbursement to Customs for costs related to approval and reapproval. The fixed fee will be published in the Customs Bulletin and the **Federal Register**. Based on a review of the actual costs associated with the program, the fixed fee may be adjusted periodically; any changes will be published in the Customs Bulletin and the **Federal Register**.

(i) *Approval fees.* A nonrefundable pre-payment equal to 50 percent of the fixed approval fee to cover preliminary processing costs must accompany each application for approval. Before a gauger will be approved, it must submit to Customs, at the address specified in the billing, within the 30 day billing period the associated charges assessed for the approval and the balance of the fixed approval fee.

(ii) *Reapproval fees.* Before a gauger will be reapproved, it must submit to Customs, at the billing address specified, within the 30 day billing period, the fixed reapproval fee.

(2) *Disputes.* In the event a gauger disputes the charges assessed for travel and per diem costs associated with scheduled inspection visits, it may file an appeal within 30 calendar days of the date of the assessment with the Executive Director. The appeal letter must specify which charges are in dispute and provide such supporting documentation as may be available for each allegation. The Executive Director will make findings of fact concerning the merits of an appeal and communicate the agency decision to the gauger in writing within 30 calendar days of the date of the appeal.

(g) *Can existing Customs-approved gaugers continue to operate?* Commercial gaugers approved by the Executive Director prior to December 8, 1993, will retain approval under these regulations provided that they conduct their business in a manner consistent with the administrative portions of this section. This paragraph does not pertain to any gauger which has had its approval suspended or revoked. Gaugers which have had their approvals continued under this section will have their status reevaluated on their next triennial inspection date which is no earlier than three years after the effective date of this regulation. At the time of reapproval, these gaugers must meet the requirements of this section and remit to Customs, at the address specified in the billing, within the 30 day billing period the fixed reapproval fee. Failure to meet these requirements will result in revocation or suspension of the approval.

(h) *How will Customs-approved gaugers operate?*

(1) *Reports.* (i) *Contents of reports.* The measurement results from a Customs-approved gauger that are submitted by an importer of record with respect to merchandise in an entry, in the absence of measurements conducted by Customs, will be accepted by Customs, provided that the importer of record certifies that the measurement was of the merchandise in the entry. All reports must measure net landed quantity, except in the case of crude petroleum of Heading 2709, Harmonized Tariff Schedule of the United States (HTSUS), which may be measured by gross quantity. Reports must use the appropriate HTSUS units of quantity, *e.g.,* liters, barrels, or kilograms.

HTSUS	Product	Unit of quantity
Headings 1501–1515	Animal and vegetable oils	Kilogram.
Subheadings 2707.10–2707.30 and 2902.20–2902.44.	Benzene, toluene and xylene	Liter.
Heading 2709	Crude Petroleum	Barrel.
Heading 2710 (various subheadings)	Fuel oils, motor oils, kerosene, naphtha, lubricating oils.	Barrel.
Chapter 29 (various subheadings)	Organic compounds in bulk and liquid form	Kilogram, liter, etc.

(ii) *Status of commercial reports where Customs also gauges merchandise.* Nothing in these regulations will preclude Customs from gauging a shipment which has been gauged by a Customs-approved gauger at the request of an importer. In cases where a shipment has been gauged by both Customs and a Customs-approved gauger, all Customs actions will be based upon the gauging reports issued by Customs, unless the Executive Director advises other actions. If Customs gauges merchandise, it will release the report of its measurements to the importer of record or its agent upon request unless the gauging information is proprietary to the holder of a copyright or patent, or developed by Customs for enforcement purposes.

(2) *Recordkeeping requirements.* Customs-approved gaugers must maintain records of the type normally kept in the ordinary course of business in accordance with the provisions of this chapter and any other applicable provisions of law, and make them available during normal business hours for Customs inspection. In addition, these gaugers must maintain all records necessary to permit the evaluation and verification of all Customs-related work, including, as appropriate, those described below. All records must be maintained for five years, unless the gauger is notified in writing by Customs that a longer retention time is necessary for particular records. Electronic data storage and transmission may be approved by Customs.

(i) *Transaction records.* Records for each Customs-related transaction must be readily accessible and have the following:

(A) A unique identifying number;

(B) The date and location where the transaction occurred;

(C) The identity of the product (*e.g.* crude oil);

(D) The name of the client;

(E) The source of the product (*e.g.,* name of vessel, flight number of airline); and

(F) If available, the Customs entry date, entry number, and port of entry and the names of the importer, exporter, manufacturer, and country-of-origin.

(ii) *Major equipment records.* Records for each major piece of equipment used in Customs-related work must identify the name and type of instrument, the manufacturer's name, the instrument's model and any serial numbers, and the occurrence of all servicing performed on the equipment or instrument, to include recalibration and any repair work,

identifying who performed the service and when.

(iii) *Records of gauging procedures.* The Customs-approved gauger must maintain complete and up-to-date copies of all approved gauging procedures, calibration methods, etc., and must document the procedures that each staff member is authorized to perform. These procedures must be readily available to appropriate staff.

(iv) *Gauging records.* The Customs-approved gauger must identify each transaction by transaction record number (see paragraph (h)(2)(i) of this section) and must maintain all information or data (such as temperatures, etc.) associated with each Customs-related gauging transaction. Each gauging record (*i.e.*, the complete file of all data for each separate transaction) must be dated and initialed or signed by the staff member(s) who did the work.

(v) *Gauging reports.* Each gauging report submitted to Customs must include:

(A) The name and address of the Customs-approved gauger;

(B) A description and identification of the transaction, including its unique identifying number;

(C) The designations of each gauging procedure used;

(D) The gauging report itself (*i.e.*, the quantity of the merchandise);

(E) The date of the report; and

(F) The typed name and signature of the person accepting technical responsibility for the gauging report (*i.e.*, an approved signatory).

(3) *Representation of Customs-approved status.* Commercial gaugers approved by Customs must limit statements or wording regarding their approval to an accurate description of the commodities for which approval has been obtained. Use of terms other than those appearing in the notice of approval (see paragraph (e) of this section) is prohibited.

(4) *Subcontracting prohibited.* Customs-approved gaugers must not subcontract Customs-related work to non Customs-approved gaugers or non Customs-accredited laboratories, but may subcontract to other facilities that are Customs-approved/accredited and in good standing.

(i) *How can a gauger have its approval suspended or revoked or be required to pay a monetary penalty?*

(1) *Grounds for suspension, revocation, or assessment of a monetary penalty.* (i) *In general.* The Executive Director may immediately suspend or revoke a gauger's approval only in cases where the gauger's actions are intentional violations of any Customs law or when required by public health or safety. In other situations where the Executive Director has cause, the Executive Director will propose the suspension or revocation of a gauger's approval or propose a monetary penalty and provide the gauger with the opportunity to respond to the notice of proposed action.

(ii) *Specific grounds.* A gauger's approval may be suspended or revoked, or a monetary penalty may be assessed because:

(A) The selection was obtained through fraud or the misstatement of a material fact by the gauger;

(B) The gauger, a principal of the gauging facility, or a person the port director determines is exercising substantial ownership or control over the gauger operation is indicted for, convicted of, or has committed acts which would: under United States federal or state law, constitute a felony or misdemeanor involving misstatements, fraud, or a theft-related offense; or reflect adversely on the business integrity of the applicant. In the absence of an indictment, conviction, or other legal process, the port director must have probable cause to believe the proscribed acts occurred;

(C) Staff gauger personnel refuse or otherwise fail to follow any proper order of a Customs officer or any Customs order, rule, or regulation;

(D) The gauger fails to operate in accordance with the obligations of paragraph (b) of this section;

(E) A determination is made that the gauger is no longer technically or operationally proficient at performing the approved methods of measurement for Customs purposes;

(F) The gauger fails to remit to Customs, at the billing address specified, within the 30 day billing period the associated charges assessed for the approval and the balance of the fixed approval fee;

(G) The gauger fails to maintain its bond;

(H) The gauger fails to remit to Customs, at the billing address specified, within the 30 day billing period the fixed reapproval fee; or

(I) The gauger fails to remit any monetary penalty assessed under this section.

(iii) *Assessment of monetary penalties.* The assessment of a monetary penalty under this section, may be in lieu of, or in addition to, a suspension or revocation of approval under this section. The monetary penalty may not exceed $100,000 per violation and will be assessed and administered pursuant to published guidelines. Any monetary penalty under this section can be in addition to the recovery of:

(A) Any loss of revenue, in cases where the gauger intentionally falsified the gauging report in collusion with the importer, pursuant to 19 U.S.C. 1499(b)(1)(B)(i); or

(B) Liquidated damages assessed under the gauger's Customs bond.

(2) *Notice.* When a decision to suspend or revoke approval, and/or assess a monetary penalty is made, the Executive Director will immediately notify the gauger in writing of the decision, indicating whether the action is effective immediately or is proposed.

(i) *Immediate suspension or revocation.* Where the suspension or revocation of approval is immediate, the Executive Director will issue a notice of determination which will state the specific grounds for the immediate suspension or revocation and advise the gauger that, in accordance with paragraph (i)(3) of this section, it may administratively appeal the determination to the Assistant Commissioner with 30 calendar days of the notice of determination. The gauger may not perform any Customs-approved functions during the appeal period.

(ii) *Proposed suspension, revocation, or assessment of monetary penalty.—(A) Preliminary notice.* Where the suspension or revocation of approval, and/or the assessment of a monetary penalty is proposed, the Executive Director will issue a preliminary notice of action which will state the specific grounds for the proposed action and advise the gauger that it has 30 calendar days to respond. The gauger may respond by accepting responsibility, explaining extenuating circumstances, and/or providing rebuttal evidence. The gauger also may ask for a meeting with the Executive Director or his designee to discuss the proposed action. The gauger may continue to perform functions requiring Customs-approval during this 30-day period. If the gauger does not respond to the preliminary notice, a notice of adverse determination, in accordance with paragraph (i)(2)(ii)(B) of this section, will be issued by the Executive Director after 30 calendar days of receipt of the preliminary notice. If the gauger files a timely response, then the Executive Director, within 30 calendar days of receipt of the response, will issue a notice of determination. If this determination is adverse to the gauger, a notice of adverse determination, in accordance with paragraph (i)(2)(ii)(B) of this section, will be issued by the Executive Director after 30 calendar days of receipt of the response.

(B) *Notice of adverse determination.* A notice of adverse determination will state the action being taken. specific grounds for the determination, and advise the gauger that it may administratively appeal the adverse determination to the Assistant Commissioner, in accordance with paragraph (i)(3) of this section. The gauger may not continue to perform any Customs-approved functions upon receiving a notice of adverse determination that its approval has been suspended or revoked.

(3) *Appeal.* A Customs-approved gauger receiving an adverse determination from the Executive Director that its approval has been suspended or revoked, and/or that it has been assessed a monetary penalty may file an administrative appeal to the Assistant Commissioner within 30 calendar days of the notice of determination. If the gauger does not file an administrative appeal, the determination made by the Executive Director in paragraph (i)(2) of this section will become a final agency decision which will be communicated to the gauger by a notice of final action issued 30 days after the notice of determination. If the gauger does file a timely appeal, then the Assistant Commissioner, within 30 calendar days of receipt of the appeal, will make a final agency decision regarding the gauger's suspension or revocation of approval, and/or assessment of a monetary penalty. If the final agency decision is adverse to the gauger, the decision will be communicated to the gauger by a notice of final action. Any adverse final agency decision will be communicated to the public by a publication in the **Federal Register** and Customs Bulletin, giving the effective date, duration, and scope of the decision. Any notice of adverse final action communicated to a gauger will state the action taken, the specific grounds for the action, and advise the gauger that it may choose to:

(i) If suspended or revoked, submit a new application to the Executive Director after waiting 90 days from the date of the Executive Director's notice of final action; or

(ii) File an action with the Court of International Trade, pursuant to chapter 169 of title 28, United States Code, within 60 days after issuance of the Executive Director's notice of final action.

§ 151.14 [Amended]

4. In § 151.14, the first sentence is amended by removing the words "'sediment and water' characteristic as set out in § 151.13(a)(2)" and adding, in its place, the words "analysis method for crude petroleum contained in ASTM D96 or other approved analysis method".

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by removing the entry for § 151.13(i), and adding, in its place, separate listings for §§ 151.12(f) and 151.13(d) to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB control no.
*	*	*
§ 151.12(f)	Application and other documents pertaining to accreditation of commercial laboratories.	1515–0155
§ 151.13(d)	Application and other documents pertaining to approval of commercial gaugers	1515–0155

Raymond W. Kelly,
Commissioner of Customs.
Approved: July 30, 1999
John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 99–23033 Filed 9–3–99; 8:45 am]
BILLING CODE 4820–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The supplemental ANADA provides for an additional package size of oxytetracycline hydrochloride soluble powder to be used to make a medicated drinking water for chickens, turkeys, cattle, swine, and sheep for control and/or treatment of various bacterial diseases.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: William G. Marnane, Center for Veterinary Medicine (HFV–140), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6966.

SUPPLEMENTARY INFORMATION: Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, filed supplemental ANADA 200–146 that provides for use of 6.4 ounce (181.5 gram (g)) packet of oxytetracycline hydrochloride soluble powder (10 g oxytetracycline hydrochloride per packet) for use in making medicated drinking water for chickens, turkeys, cattle, swine, and sheep for treatment and/or control of various bacterial diseases. The supplemental ANADA is approved as of July 26, 1999, and the regulations are amended in 21 CFR 520.1660d(a)(7) to reflect the approval.

This supplemental ANADA concerns an additional packet size of product to be used as currently approved. The safety and effectiveness of the product does not change. A freedom of information summary as described in 21 CFR part 20 and 514.11(e)(2)(ii) is not required.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1660d [Amended]

2. Section 520.1660d *Oxytetracycline hydrochloride soluble powder* is amended in paragraphs (a)(1) and (a)(2) by removing the semicolons at the end of the paragraphs and by adding periods in their places, and in paragraph (a)(7) by adding at the beginning of the first parenthetical phrase the words "packet: 6.4 oz.;".

Dated: August 24, 1999.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–23131 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522 and 556

Implantation or Injectable Dosage Form New Animal Drugs; Chorionic Gonadotropin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Intervet, Inc. The supplemental NADA provides for intramuscular use of chorionic gonadotropin, a freeze-dried powder reconstituted for intramuscular injection in male and female brood finfish as an aid in improving spawning function. The regulations are also amended to establish an acceptable daily intake (ADI) for total gonadotropins.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7571.

SUPPLEMENTARY INFORMATION: Intervet, Inc., 405 State St., P.O. Box 318, Millsboro, DE 19966–0318, filed supplemental NADA 140–927 that provides for use of Chorulon® (chorionic gonadotropin) freeze-dried powder, reconstituted for intramuscular injection in male and female brood finfish as an aid in improving spawning function. The supplemental NADA is approved as of August 6, 1999, and § 522.1081 (21 CFR 522.1081) is amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In addition, data in the supplemental NADA were evaluated to establish an ADI for total gonadotropins. The regulations are amended in part 556 (21 CFR part 556) by adding § 556.304 to provide an ADI for total gonadotropins and to provide that a tolerance for residues of gonadotropins in edible tissues of treated animals is not required. Also, § 522.1081 is amended to add paragraphs referencing related tolerances.

In addition, FDA is removing the footnote in § 522.1081(a)(3). This regulation was footnoted to reflect those conditions of use that were subject to review under the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Implementation (DESI) program and FDA's conclusions based on that review. With the enactment of the Generic Animal Drug and Patent Term Restoration Act of 1986, use of NAS/NRC DESI reviews to support approval of new animal drugs became obsolete.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(c) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning August 6, 1999, because the supplement contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies to use of chorionic gonadotropin freeze-dried powder, reconstituted for intramuscular injection in male and female brood finfish as an aid in improving spawning function.

This rule does not meet the definition of "rule" in 5 U.S.C. 804(3)(A) because it is a rule of "particular applicability." Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522 and 556 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 522.1081 is amended by adding after the word "intrafollicularly" the phrase "in cattle" in paragraphs (a)(2)(i) and (a)(2)(ii), by adding after the word "intramuscularly" the phrase "in cattle and finfish" in paragraph (a)(2)(iii), by redesignating paragraph (a)(3) as paragraph (a)(4), by adding new paragraph (a)(3), by revising the heading and by removing the footnote of newly redesignated paragraph (a)(4), by revising newly redesignated paragraph (a)(4)(i), by adding paragraph (a)(5), by redesignating paragraph (b)(3) as paragraph (b)(4), by adding new paragraph (b)(3), by revising the heading of newly redesignated paragraph (b)(4), by removing "ovualtions" and adding in its place "ovulations" in newly redesignated paragraph (b)(4)(iii) to read as follows:

§ 522.1081 Chorionic gonadotropin for injection; chorionic gonadotropin suspension.

(a) * * *

(3) *Related tolerances.* See § 556.304 of this chapter.

(4) *Conditions of use in cattle*—(i) *Amount.* 10,000 USP units as a single, deep intramuscular injection; 500 to 2,500 USP units for intrafollicular injection; 2,500 to 5,000 USP units intravenously.

* * * * *

(5) *Conditions of use in finfish*—(i) *Amount.* 50 to 510 I.U. per pound of body weight for males, 67 to 1816 I.U. per pound of body weight for females, by intramuscular injection.

(ii) *Indications for use.* An aid in improving spawning function in male and female brood finfish.

(iii) *Limitations.* May administer up to three doses. The total dose administered per fish (all injections combined) should not exceed 25,000 I.U. chorionic gonadotropin (25 milliliters) in fish intended for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b) * * *

(3) *Related tolerances.* See § 556.304 of this chapter.

(4) *Conditions of use in heifers* * * * * * * * * *

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

3. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

4. Section 556.304 is added to subpart B to read as follows:

§ 556.304 Gonadotropin.

(a) *Acceptable daily intake (ADI).* The ADI for residues of total gonadotropins (human chorionic gonadotropin and pregnant mare serum gonadotropin) is 42.25 I.U. per kilogram of body weight per day.

(b) *Tolerances.* A tolerance for residues of gonadotropin in uncooked edible tissues of cattle or of fish is not required.

Dated: August 24, 1999.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 99–23132 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8838]

RIN 1545–AU45

Inflation-Indexed Debt Instruments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the federal income tax treatment of inflation-indexed debt instruments, including Treasury Inflation-Indexed Securities. The regulations in this document provide needed guidance to holders and issuers of inflation-indexed debt instruments.

EFFECTIVE DATE: The regulations are effective September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Helen Vanek-Bigelow or William E. Blanchard, (202) 622–3950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1997, temporary regulations (TD 8709 [1997–1 C.B. 167]) relating to the federal income tax treatment of inflation-indexed debt instruments under sections 1275 and 1286 of the Internal Revenue Code (Code) were published in the **Federal Register** (62 FR 615). A notice of proposed rulemaking (REG–242996–96 [1997–1 C.B. 784]) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (62 FR 694). A public hearing was held on April 30, 1997. However, no one requested to speak at the hearing.

No written comments responding to the notice were received. Therefore, the proposed regulations under sections 1275 and 1286 are adopted by this Treasury decision with no changes, and the corresponding temporary regulations are redesignated as final regulations.

Explanation of Provisions

The following is a general explanation of the provisions in the final regulations, which are the same as the provisions in the temporary regulations.

A. In General

The final regulations provide rules for the treatment of certain debt instruments that are indexed for inflation and deflation, including Treasury Inflation-Indexed Securities. The final regulations generally require holders and issuers of inflation-indexed debt instruments to account for interest and original issue discount (OID) using constant yield principles. In addition, the final regulations generally require holders and issuers of inflation-indexed debt instruments to account for inflation and deflation by making current adjustments to their OID accruals.

B. Applicability

The final regulations apply to inflation-indexed debt instruments. In general, an inflation-indexed debt instrument is a debt instrument that (1) is issued for cash, (2) is indexed for inflation and deflation (as described below), and (3) is not otherwise a contingent payment debt instrument. The final regulations do not apply, however, to certain debt instruments, such as debt instruments issued by qualified state tuition programs.

C. Indexing Methodology

A debt instrument is considered indexed for inflation and deflation if the payments on the instrument are indexed by reference to the changes in the values of a general price or wage index over the term of the instrument. Specifically, the amount of each payment on an inflation-indexed debt instrument must equal the product of (1) the amount of the payment that would be payable on the instrument (determined as if there were no inflation or deflation over the term of the instrument) and (2) the ratio of the value of the reference index for the payment date to the value of the reference index for the issue date.

The reference index for a debt instrument is the mechanism for measuring inflation and deflation over the term of the instrument. This mechanism associates the value of a single qualified inflation index for a particular month with a specified day of a succeeding month. For example, under the terms of the Treasury Inflation-Indexed Securities, the reference index for the first day of a month is the value of a qualified inflation index for the third preceding month. The reference index must be reset once a month to the current value of a qualified inflation index. Between reset dates, the value of the reference index is determined through straight-line interpolation.

A qualified inflation index is a general price or wage index that is updated and published at least monthly by an agency of the United States Government. A general price or wage index is an index that measures price or wage changes in the economy as a whole. An index is not general if it only

measures price or wage changes in a particular segment of the economy. For example, the non-seasonally adjusted U.S. City Average All Items Consumer Price Index for All Urban Consumers (CPI–U), which is published by the Bureau of Labor Statistics of the Department of Labor, is a qualified inflation index because it measures general price changes in the economy. By contrast, the gasoline price component of the CPI–U is not a qualified inflation index because it only measures price changes in a particular segment of the economy.

D. Coupon Bond Method

The final regulations provide a simplified method of accounting for qualified stated interest and inflation adjustments on certain inflation-indexed debt instruments (the coupon bond method). To qualify for the coupon bond method, an inflation-indexed debt instrument must satisfy two conditions. First, there must be no more than a de minimis difference between the debt instrument's issue price and its principal amount for the issue date. Second, all stated interest on the debt instrument must be qualified stated interest. Because Treasury Inflation-Indexed Securities that are not stripped into principal and interest components satisfy both of these conditions, the coupon bond method applies to these securities.

If an inflation-indexed debt instrument qualifies for the coupon bond method, the stated interest payable on the debt instrument is taken into account under the taxpayer's regular method of accounting. Any increase in the inflation-adjusted principal amount is treated as OID for the period in which the increase occurs. Any decrease in the inflation-adjusted principal amount is taken into account under the rules for deflation adjustments described below.

For example, if a taxpayer holds a Treasury Inflation-Indexed Security for an entire calendar year and the taxpayer uses the cash receipts and disbursements method of accounting (cash method), the taxpayer generally includes in income the interest payments received on the security during the year. In addition, the taxpayer includes in income an amount of OID measured by subtracting the inflation-adjusted principal amount of the security at the beginning of the year from the inflation-adjusted principal amount of the security at the end of the year. If the taxpayer uses an accrual method of accounting rather than the cash method, the taxpayer includes in income the qualified stated interest that accrued on the debt instrument during the year and an amount of OID measured by subtracting the inflation-adjusted principal amount of the security at the beginning of the year from the inflation-adjusted principal amount of the security at the end of the year.

E. Discount Bond Method

If an inflation-indexed debt instrument does not qualify for the coupon bond method (for example, because it is issued at a discount), the instrument is subject to the discount bond method. In general, the discount bond method requires holders and issuers to make current adjustments to their OID accruals to account for inflation and deflation.

Under the discount bond method, a taxpayer determines the amount of OID allocable to an accrual period by using steps similar to those provided in § 1.1272–1(b)(1). First, the taxpayer determines the yield to maturity of the debt instrument as if there were no inflation or deflation over the term of the instrument. Second, the taxpayer determines the length of the accrual periods to be used to allocate OID over the term of the debt instrument, provided no accrual period is longer than one month. Third, the taxpayer determines the percentage change in the value of the reference index during the accrual period by comparing the value at the beginning of the period to the value at the end of the period. Fourth, the taxpayer determines the OID allocable to the accrual period by using a formula that takes into account both the yield of the debt instrument and the percentage change in the value of the reference index during the period. Fifth, the taxpayer allocates to each day in the accrual period a ratable portion of the OID for the accrual period (the daily portions). If the daily portions for an accrual period are positive amounts, these amounts are taken into account under section 163(e) by an issuer and under section 1272 by a holder. If the daily portions for an accrual period are negative amounts, these amounts are taken into account under the rules for deflation adjustments described below.

F. Deflation Adjustments

The final regulations treat deflation adjustments in a manner consistent with the treatment of net negative adjustments on contingent payment debt instruments under § 1.1275–4(b)(6)(iii). If a holder has a deflation adjustment for a taxable year, the deflation adjustment first reduces the amount of interest otherwise includible in income with respect to the debt instrument for the taxable year. If the amount of the deflation adjustment exceeds the interest otherwise includible in income for the taxable year, the holder treats the excess as an ordinary loss in the taxable year. However, the amount treated as an ordinary loss is limited to the amount by which the holder's total interest inclusions on the debt instrument in prior taxable years exceed the total amount treated by the holder as an ordinary loss on the debt instrument in prior taxable years. If the deflation adjustment exceeds the interest otherwise includible in income by the holder with respect to the debt instrument for the taxable year and the amount treated as an ordinary loss for the taxable year, the excess is carried forward to offset interest income on the debt instrument in subsequent taxable years. Similar rules apply to determine an issuer's interest deductions and income for the debt instrument.

G. Miscellaneous Rules

The final regulations provide special rules for reopenings, strips, subsequent holders, and minimum guarantees.

H. Effective Date

The final regulations apply to an inflation-indexed debt instrument issued on or after January 6, 1997.

Special Analyses

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

Drafting information. The principal author of the regulations is Helen Vanek-Bigelow, Office of Assistant Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entries for §§ 1.1275–7T and 1.1286–2T and adding two entries in numerical order to read in part as follows:

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

Section 1.1275–7 also issued under 26 U.S.C. 1275(d). * * *

Section 1.1286–2 also issued under 26 U.S.C. 1286(f). * * *

§ 1.148–4 [Amended]

Par. 2. Section 1.148–4 is amended by:

1. Removing the "T" from the reference "§ 1.1275–7T" in paragraph (h)(2)(v)(A).

2. Removing the "T" from the reference "§ 1.1275–7T" in paragraph (h)(2)(v)(B).

§ 1.163–13 [Amended]

Par. 3. Section 1.163–13 is amended by:

1. Removing the "T" from the reference "§ 1.1275–7T(f)(1)(ii)" in the next to the last sentence in paragraph (e)(2).

2. Removing the "T" from the reference "§ 1.1275–7T" in the last sentence in paragraph (e)(2).

§ 1.171–3 [Amended]

Par. 4. Section 1.171–3 is amended by:

1. Removing the "T" from the reference "§ 1.1275–7T(f)(1)(i)" in the next to last sentence in paragraph (b).

2. Removing the "T" from the reference "§ 1.1275–7T" in the last sentence in paragraph (b).

Par. 5. In § 1.1271–0, paragraph (b) is amended by revising the entry for § 1.1275–7T to read as follows:

§ 1.1271–0 Original issue discount; effective date; table of contents.

* * * * *

(b) * * *

* * * * *

§ 1.1275–7 Inflation-indexed debt instruments.

* * * * *

§ 1.1275–4 [Amended]

Par. 6. Section 1.1275–4 is amended by removing the "T" from the reference "§ 1.1275–7T" in paragraph (a)(2)(vii).

§ 1.1275–7T [Redesignated as § 1.1275–7]

Par. 7. Section 1.1275–7T is redesignated as § 1.1275–7 and the language "(temporary)" is removed from the section heading.

§ 1.1286–2T [Redesignated as § 1.1286–2]

Par. 8. Section 1.1286–2T is redesignated as § 1.1286–2 and the language "(temporary)" is removed from the section heading.

Par. 9. Newly designated § 1.1286–2 is amended by removing the "T" from the reference "§ 1.1275–7T(e)".

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: August 25, 1999.

Jonathan Talisman,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–23082 Filed 9–3–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 8837]

RIN 1545–AV50

Revision of the Tax Refund Offset Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the administration of the Tax Refund Offset Program (TROP). This action is necessary because effective January 1, 1999, TROP, which had been administered by the IRS, was fully merged into the centralized administrative offset program known as the Treasury Offset Program (TOP), which is administered by the Financial Management Service (FMS). These regulations will affect State and Federal agencies that participate in TROP.

DATES: Effective Dates: These regulations are effective September 7, 1999.

Dates of Applicability: For dates of applicability of these regulations, see §§ 301.6402–5(h) and 301.6402–6(n).

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations on Procedure and Administration (26 CFR part 301) that revise the effective dates for regulations under section 6402(c) and (d). Those subsections provide rules relating to the offset of past-due support payments and debts owed to Federal agencies against Federal tax refunds, respectively.

On August 31, 1998, a notice of proposed rulemaking (REG–104565–97) under section 6402(c) and (d) was published in the **Federal Register** (63 FR 46205). Although written or electronic comments and requests for a public hearing were solicited, no comments were received and no public hearing was requested or held. The proposed regulations under section 6402(c) and (d) are adopted by this Treasury decision without revision.

Explanation of Provisions

Section 6402(c) provides, in general, that the amount of any overpayment to be refunded to the person making the overpayment must be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act.

Section 6402(d) provides, in general, that upon receiving notice from any Federal agency that a named person owes a past-due, legally enforceable debt to that agency, the Secretary must reduce the amount of any overpayment payable to that person by the amount of the debt, pay the amount by which the overpayment is reduced to the agency, and notify the person making the overpayment that the overpayment has been reduced.

Prior to January 1, 1998, the IRS made offsets pursuant to section 6402(d) according to regulations prescribed under § 301.6402–6. Prior to January 1, 1999, the IRS made offsets pursuant to section 6402(c) according to regulations prescribed under § 301.6402–5.

Section 31001(v)(2) and (w) of the Debt Collection Improvement Act of 1996 (110 Stat. 1321–375), amended 42 U.S.C. 664(a)(2)(A) and 31 U.S.C. 3720A(h), respectively, to clarify that the disbursing agency of the Treasury Department may conduct tax refund offsets. The disbursing agency of the Treasury Department is the Financial Management Service (FMS).

The IRS and FMS agreed to merge the Tax Refund Offset Program (TROP), which had been administered by the IRS, into the centralized administrative offset program known as the Treasury Offset Program (TOP), which is administered by the FMS. The merger of the two programs is intended to maximize and improve the Treasury Department's government-wide collection of nontax debts, including those subject to offset against the debtor's federal tax refund. The full merger of TROP with TOP occurred on January 1, 1999.

Final rules concerning the manner in which the FMS will administer the collection of nontax Federal debts after the merger of TROP with TOP were published by the FMS in the **Federal Register** on August 28, 1998 (63 FR 46140) (codified at 31 CFR Part 285.2) effective for refunds payable after January 1, 1998. The regulations in this document provide an ending effective date for § 301.6402–6 to accommodate the beginning effective date of the FMS regulations. Accordingly, § 301.6402–6 does not apply to refunds payable after January 1, 1998.

Final rules concerning the manner in which the FMS will administer the collection of past-due support payments were published by the FMS in the **Federal Register** on December 30, 1998 (63 FR 72092) (codified at 31 CFR Part 285.3), effective for refunds payable after January 1, 1999. The regulations in this document provide an ending effective date for § 301.6402–5 to accommodate the beginning date for the full merger of TROP with TOP. Accordingly, § 301.6402–5 does not apply to refunds payable after January 1, 1999.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because 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. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Beverly A. Baughman of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

List of Subjects in 26 CFR Part 301

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

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

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

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

Par. 2. Section 301.6402–5 is amended by adding paragraph (h) to read as follows:

§ 301.6402–5 Offset of past-due support against overpayments.

* * * * *

(h) Effective dates. This section applies to refunds payable on or before January 1, 1999. For the rules applicable after January 1, 1999, see 31 CFR part 285.

Par. 3. Section 301.6402–6 is amended by revising paragraph (n) to read as follows:

§ 301.6402–6 Offset of past-due, legally enforceable debt against overpayment.

* * * * *

(n) *Effective dates.* This section applies to refunds payable under section 6402 after April 15, 1992, and on or before January 1, 1998. For the rules applicable after January 1, 1998, see 31 CFR part 285.

Bob Wenzel,

Deputy Commissioner of Internal Revenue

Approved: August 25, 1999.

Jonathan Talisman,

Deputy Assistant Secretary of Treasury.

[FR Doc. 99–23083 Filed 9–3–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300916; FRL–6380–7]

RIN 2070–AB78

Avermectin B_1 and its delta-8,9-isomer; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer in or on grapes at 0.02 parts per million (ppm), peppers at 0.02 ppm, and cotton gin byproducts at 0.15 ppm; makes permanent tolerances for citrus, hops, potatoes, meat and meat by-products, milk, and cotton seed which were previously time limited (expiring September 1, 1999); and clarifies that permanent tolerances have previously been established for almond hulls at 0.10 ppm and wet apple pomace at 0.10 ppm. Novartis Crop Protection, Inc. requested these tolerance actions under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective September 7, 1999. Objections and requests for hearings, identified by docket control number OPP–300916, must be received by EPA on or before November 8, 1999.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the "SUPPLEMENTARY INFORMATION" section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300916 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Thomas C. Harris, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308–9423; and e-mail address: harris.thomas@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System

(NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT" section.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**--Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300916. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

This regulation addresses three tolerance actions concerning avermectin B_1 and its delta-8,9-isomer.

A. New Tolerances

In the **Federal Register** of August 11, 1997 (62 FR 42980) (FRL–5736–1), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP 7F4844) for tolerance by Merck Research Laboratories, PO Box 450, Hillsborough Rd, Three Bridges, NJ. The petition was later transferred to Novartis Crop Protection, Inc., PO Box 18300, Greensboro, NC 27419. There were no comments received in response to the notice of filing.

The initial petition requested that 40 CFR 180.449 be amended by establishing a tolerance for combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer, in or on grapes, raisins, and other grape-derived food items at 0.02 ppm and chili peppers at 0.01 ppm. The petition was subsequently revised to express the tolerance as simply peppers (combining the proposed chili peppers with the existing 0.01 ppm bell pepper tolerance) and raising the level to 0.02 ppm to harmonize the tolerance with international residue limits. In addition, the petition was also revised to express the proposed tolerance as simply grapes at 0.02 ppm since residue data showed that separate, higher tolerance levels were not needed for raisins and other grape-derived food items as expressed in the original petition.

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

B. Conversion of Certain Tolerances from Time-limited to Permanent

In the **Federal Register** of July 29, 1999 (64 FR 41112) (FRL–6095–6), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a as amended by the FQPA (Public Law 104–170) announcing the filing of a pesticide petition (PP) by Novartis Crop Protection, Inc., PO Box 18300, Greensboro, NC 27419 to convert certain time limited tolerances due to expire September 1, 1999 to permanent tolerances and to add a new tolerance for a feed commodity. There were no comments received in response to the notice of filing.

The petition referenced pesticide petitions PP 8F3592, 7F3500, 4E4419 and 5F4508. It requested that 40 CFR 180.449 be amended by establishing permanent tolerances for combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer, in or on the agricultural commodities cattle, fat at 0.015 ppm; cattle, meat byproducts at 0.02 ppm; cattle, meat at 0.02 ppm; citrus, dried pulp at 0.10 ppm; citrus, oil at 0.10 ppm; citrus, whole fruit at 0.02 ppm; cotton seed at 0.005 ppm; cotton gin by-products at 0.15 ppm; hops, dried at 0.20 ppm; milk at 0.005 ppm; and potatoes at 0.005 ppm.

With the exception of cotton gin by-products, these tolerances were previously established as time-limited tolerances with an expiration date of September 1, 1999 (see **Federal Register** of March 24, 1997 (62 FR 13833) (FRL–5597–7) to allow for resolution of the following three issues:

1. The petitioner had to submit field residue trial data for cotton gin byproducts and the EPA had to reevaluate dietary risk with respect to secondary residues in meat and milk. These data were submitted; the review is discussed later in this rule. As a result of this review, the July 29, 1999 notice proposed the new tolerance for cotton gin byproducts at 0.15 ppm.

2. The EPA needed to fully review the Monte Carlo analysis for acute dietary risk submitted by the petitioner (especially the anticipated residues and percent of crop treated data used). This review was conducted as part of the tolerance assessment for grapes and peppers.

3. The EPA needed to fully review the indoor residential risk assessment submitted by the petitioner. This review was conducted as part of the tolerance assessment for grapes and peppers. Since all three issues have been satisfactorily addressed, the petitioner is seeking to make the tolerances permanent.

C. Clarification: Certain Feed Tolerances Previously Established

In the **Federal Register** of April 10, 1996 (61 FR 15900) (FRL–5361–9), EPA issued a final rule pursuant to section 409(e) of the FFDCA, 21 U.S.C. 348(b) announcing permanent tolerances under 40 CFR 186.300 for combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer, in or on the processed feed commodities apples, wet pomace at 0.10 ppm and almonds, hulls at 0.10 ppm. This regulation also established permanent tolerances under 40 CFR 180.449 on the raw agricultural commodities almonds at 0.005 ppm; apples at 0.020 ppm; and walnuts at 0.005 ppm.

Although that final rule listed tolerances for both raw agricultural commodities and feed commodities, the 1996 edition of 40 CFR parts 150–189 (revised as of July 1, 1998), and subsequent editions, listed only the tolerances for the raw agricultural commodities and did not list the feed commodities established by this regulation. With this current regulation the Agency is clarifying that tolerances have been legally in effect since April 10, 1996 for the processed feed commodities apples, wet pomace at 0.10 ppm and almonds, hulls at 0.10 ppm. Due to amendments to the FFDCA by the FQPA, all (i.e. raw, processed, and feed commodity) tolerances for avermectin B_1 and its delta-8,9-isomer are now listed in the same section of 40 CFR (180.449).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of avermectin B_1 and its delta-8,9-isomer and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a tolerance for combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer on grapes at 0.02 ppm and peppers at 0.02 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by avermectin B_1 and its delta-8,9-isomer are discussed in this unit.

1. *Acute toxicity/skin sensitization.* The following summarizes the acute toxicity of technical grade avermectin B_1: the acute oral LD_{50} is 13.6 milligrams/kilogram (mg/kg) (toxicity category I); the acute dermal LD_{50} is 2,000 mg/kg (toxicity category III); acute inhalation requirements were waived; primary eye irritation results show the chemical to be very irritating exhibiting corneal opacity, conjunctivitis, and iritis (toxicity category II); primary skin irritation results show slight irritation (toxicity category III); dermal sensitization results are negative.

2. *Subchronic toxicity.* In a 14-Week Oral Toxicity Study in Rats, groups of 15 male and 15 female Charles River CD rats were gavaged with 0, 0.1, 0.2, or 0.4 mg/kg/day of C–076 (avermectin B_1). The rats had previously been exposed *in utero* to avermectin B_1 at doses of 0, 0.01, 0.2, or 0.4 mg/kg/day. No toxic signs or deaths were noted in any of the treatment groups. Body weight gain was increased in the rats dosed at 0.4 mg/kg/day. There were no treatment-related ophthalmologic changes, clinical pathology anomalies, gross or histopathologic lesions, or changes in organ weights. The No Observable Adverse Effect Level (NOAEL) is > 0.4 mg/kg/day, the highest dose tested.

An 18–Week Oral Toxicity Study in Dogs resulted in a NOAEL of 0.25 mg/kg/day with the Lowest Observed Adverse Effect Level (LOAEL) being 0.5 mg/kg/day based on body tremors, one death, liver pathology, and decreased body weight.

3. *Chronic toxicity/ongogenicity/carcinogenicity.* In a Combined Chronic Toxicity/Oncogenicity Study in Rats, the oncogenic potential was negative up to 2.0 mg/kg/day, the highest dose tested (HDT). The high dose was increased to 2.5 mg/kg/day between weeks 10 and 13. The high-dose is considered the Maximum Tolerated Dose (MTD). The systemic NOAEL is 1.5 mg/kg/day (mid-dose). The LOAEL is 2.0 mg/kg/day based on tremors in both sexes. A mid-dose female that had tremors was found to have received a dose of about 2.5 mg/kg/day (based on actual food consumption and body weight data). No pathological lesions could be found to explain the tremors.

In a Carcinogenicity Study in Mice, oncogenic potential was negative up to 8 mg/kg/day, the HDT. The high-dose (8 mg/kg/day) is considered the MTD. The systemic NOAEL is 4 mg/kg/day. The LOAEL is 8 mg/kg/day based on increased incidence of dermatitis in males, an increased incidence of extramedullary splenic hematopoiesis in males, increased mortality in males, and tremors and body weight decrease in females.

In a 53–Week Oral Toxicity Study in Dogs, the NOAEL is 0.25 mg/kg/day, and the LOAEL is 0.50 mg/kg/day based on a high incidence of mydriasis (dilatation of the pupil of the eye) in males and females.

4. *Developmental and reproductive toxicity.* In a Developmental Toxicity Study in Rats, groups of 25 female CRCD rats were mated, then dosed by gavage with technical MK-0936 (avermectin B_1) at 0 (vehicle control), 0.4, 0.8, or 1.6 mg/kg/day on gestation days 6 through 19. The lack of any maternal or developmental toxicity demonstrates that the doses selected for this study were too low to establish a LOAEL. The maternal and developmental NOAELs are > 1.6 mg/kg/day (the HDT).

In a Developmental Toxicity Study in Rabbits, the maternal NOAEL is 1.0 mg/kg/day, and the maternal LOAEL is 2.0 mg/kg/day based on decreased body weights, food consumption, and water consumption. The developmental NOAEL is 1.0 mg/kg/day, and the Developmental LOAEL is 2.0 mg/kg/day based on cleft palate, clubbed foot, and delayed ossification of sternebrae, metacarpals, and phalanges.

In a 2–generation Reproduction Study in Rats, the systemic and reproductive NOAELs are ≥ 0.40 mg/kg/day. The developmental NOAEL is 0.12 mg/kg/day, and the developmental LOAEL is 0.40 mg/kg/day based on decreased pup body weight and viability during lactation, and increased incidence of retinal rosettes in F2b weanlings.

In a Special Developmental Toxicity Study in CF-1 Mice, a genotypic susceptibility to cleft palate was seen

following *in utero* exposure of avermectin B_1 delta 8-9 isomer (an isomeric photodegradation product found in plants). P-glycoproteins are large proteins (150–180 kDa) found in the cell membranes of animals ranging from sponges to humans. Groups of 12 P-glycoprotein molecules span the lipid bilayer to form pores that protect the cell by secreting toxic chemicals (such as the avermectins) at the expense of ATP.

The CF-1 mouse strain is unique in that it contains a spontaneous mutation in the P-glycoprotein gene resulting in heterogeneity in the expression of the protein, a component of the blood-brain and blood-placental barrier. Mice with a ± or -/- genotype have decreased expression of this protein. A decrease in expression of the P-glycoprotein in both the gastrointestinal tract and brain increased the sensitivity of CF-1 mice to avermectin toxicity by increasing its absorption. Because the protein is also a component of the placental-blood barrier, it was hypothesized that a deficiency of this protein in the placenta may increase the sensitivity of the fetus to the avermectins. In this exploratory developmental toxicity study, the role of fetal P-glycoprotein genotype in the development of cleft palate in CF-1 mice was investigated.

Heterozygous (±) male and female mice for P-glycoprotein expression were mated. The dams were dosed by gavage with 1.5 mg/kg/day of the test article on gestation days 6–15, inclusive. The pups had the typical 1:2:1 Mendelian expression of P-glycoprotein deficiency (+/+, ±, and -/-, respectively).

There was a clear correlation between fetal P-glycoprotein genotype and cleft palate incidence. Cleft palate was observed in 97% of fetuses with the -/- genotype, 41% of fetuses with the ± genotype, and none of the fetuses with the +/+ genotype. It was postulated that placental P-glycoprotein limited the potential of the test article to induce cleft palate in the fetuses, presumably by regulating the amount of test material allowed to cross the placental barrier into the developing fetus.

The literature contains no mention of P-glycoprotein deficiency in humans, and several scientists who are researching P-glycoprotein confirmed this. Since there is no known human correlate for P-glycoprotein deficiency, the CF-1 mouse should not be used for assessing the risk of human exposure to avermectins. Although several developmental toxicity studies were performed using CF-1 mice, they are inappropriate for regulatory purposes.

5. *Mutagenicity.* The available studies clearly indicate that avermectin B_1, delta-8,9-isomer (a plant metabolite), and the polar photolysis degradates are not mutagenic in microbial systems. While avermectin B_1 has the potential to damage DNA, the lack of an *in vitro* mutagenic or clastogenic effect correlates well with the lack of an oncogenic effect in rat or mouse long-term feeding studies and also with the absence of significant reproductive or developmental toxicity attributable to a mutagenic mode of action (i.e., decreased total implants or increased resorptions).

6. *Metabolism.* In a metabolism study in rats, two metabolites were identified, 2,4-OH-ME-B_{1a}, and 3″desmethyl avermectin B_{1a} (3″DM-B_{1a}). No bioaccumulation was seen in rat tissues.

7. *Neurotoxicity.* There are no neurotoxicity or developmental neurotoxicity studies of avermectin B_1. However, neurotoxicity was observed in other oral toxicity studies. A chronic study in dogs resulted in mydriasis at 0.50 mg/kg/day. A chronic/oncogenicity study in rats resulted in tremors in both sexes at the LOAEL of 2.0 mg/kg/day. A chronic/carcinogenicity study in mice resulted in tremors in females at the LOAEL of 8 mg/kg/day. In an 18–week study in dogs signs, seen at 0.50 mg/kg/day included mydriasis, whole body tremors, ataxia (lack of coordination), muscular tremors, and ptyalism (excessive flow of saliva). In a 10–day developmental toxicity study in CF-1 mice, hunched back and marked tremors were observed after 6–7 days dosing at 0.3 mg/kg/day in the diet. In a reproduction study in rats, spastic movements of the limbs and muscular tremors of the entire body were seen in lactating pups, but not in the dams, at 0.4 mg/kg/day. In a reproduction study in rats, whole body tremors, ataxia, ptyalism, and ocular and/or nasal discharges were seen in dams dosed at 2.0 mg/kg/day (no mention of neurotoxicity in the pups). In two developmental toxicity studies in CF-1 mice, death was preceded by tremors, then coma.

B. Toxicological Endpoints

1. *Acute toxicity.* An acute dietary Reference Dose (RfD) of 0.0025 mg/kg was based on data from a 1–year dog study. The NOAEL is 0.25 mg/kg/day, and the LOAEL is 0.50 mg/kg/day based on mydriasis which was observed after 1 week of dosing. An uncertainty factor of 100 was used to account for interspecies extrapolation (10x) and intraspecies variability (10x).

2. *Short- and intermediate-term toxicity.* Short- and intermediate-term dermal and inhalation NOAELs are derived by route-to-route extrapolation of the oral NOAEL of 0.25 mg/kg/day based on mydriasis after 1 week of dosing in a 1–year dog study. Dermal absorption is considered to be 1% based on a monkey study that found dermal absorption to be less than 1% (rounded up to 1% for analysis purposes). Oral and inhalation absorption are both assumed to be 100%.

3. *Chronic toxicity.* EPA has established the RfD for avermectin B_1 and its delta-8,9-isomer at 0.0012 mg/kg/day. This Reference Dose (RfD) is based on a 2–generation reproduction study in rats. The developmental NOAEL is 0.12 mg/kg/day, and the developmental LOAEL is 0.40 mg/kg/day based on decreased pup body weight and viability during lactation, and increased incidence of retinal rosettes in F2b weanlings. An uncertainty factor of 100 was used to account for interspecies extrapolation (10x) and intraspecies variability(10x).

The long-term dermal NOAEL is a route-to-route extrapolation of the oral NOAEL of 0.12 mg/kg/day based on decreased pup body weight and viability during lactation, and increased incidence of retinal rosettes in F2b weanlings in a 2–generation reproduction study in rats. Dermal absorption is considered to be 1% based on a monkey study that found dermal absorption to be less than 1% (rounded up to 1% for analysis purposes).

The long-term inhalation NOAEL is a route-to-route extrapolation from the oral NOAEL of 0.12 mg/kg/day based on decreased pup body weight and viability during lactation, and increased incidence of retinal rosettes in F2b weanlings in a 2–generation reproduction study in rats. Oral and inhalation absorption are both assumed to be 100%.

4. *Carcinogenicity.* The Agency has classified avermectin B_1 as a Cancer Group E chemical based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.449) for the combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer, in or on a variety of raw agricultural commodities. Permanent tolerances include almonds (0.005 ppm); almonds, hulls (0.10 ppm); apples (0.020 ppm); apples, wet pomace (0.10 ppm); celery

(0.05 ppm); cucurbits (0.005 ppm); head lettuce (0.05 ppm); pears (0.02 ppm) bell peppers (0.01 ppm) strawberry (0.02 ppm); fresh tomatoes (0.01 ppm); walnuts (0.005 ppm). The following time limited tolerances are due to expire September 1, 1999: cattle, fat (0.015 ppm); cattle, meat (0.02 ppm); cattle, meat by products (0.02 ppm); citrus, dried pulp (0.10 ppm); citrus, oil (0.10 ppm); citrus, whole fruit (0.02 ppm) cotton seed (0.005 ppm); dried hops (0.2 ppm); milk (0.005 ppm); potatoes (0.005 ppm). The following Section 18 time limited tolerances will expire January 31, 2,000: basil (0.05 ppm); celeriac (0.05 ppm) spinach (0.05 ppm). Finally, a section 18 time limited tolerance for avocado (0.02 ppm) will expire September 20, 2,000. All of these tolerances (i.e. both permanent and time-limited) were included in the dietary risk analysis. Risk assessments were conducted by EPA to assess dietary exposures from avermectin B_1 and its delta-8,9-isomer as follows:

Section 408(b)(2)(E) authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. As required by section 408(b)(2)(E), EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of crop treated (PCT) for assessing chronic dietary risk only if the Agency can make the following three findings: (1) That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; (2) that the exposure estimate does not underestimate exposure for any significant subpopulation group; and (3) if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of percent of crop treated as required by the section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used the following information to conduct a dietary exposure analysis. The maximum PCT is used for acute dietary exposure estimates and represents the highest levels to which an individual could be exposed. It is unlikely to underestimate an individual's acute dietary exposure. The weighted average percent crop treated is used for chronic dietary exposure and reasonably represents a person's dietary exposure over a lifetime. It is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, so that an individual is unlikely to be exposed to more than the average percent crop treated over a lifetime. For each crop in the dietary (food only) model the following percent crop treated values were used for the acute and chronic analyses (respectively): almond 100%, 100%; apple 6.1%, 1.9%; avocado 100%, 100%; basil 100%, 100%; cantaloupe 5%, 1.3%; celeriac 100%, 100%; celery 60%, 49%; citrus, other 43%, 32%; cotton 4.8%, 3.2%; cucumber 100%, 31%; grapefruit, juice and peel 60.9%, 46%; grapefruit, peeled fruit 43%, 46%; grape 14%, 14%; hops 100%, 84%; lemon, juice and peel 34.4%, 17%; lemon, peeled fruit 43%, 17%, head lettuce 28%, 22%; lime, juice and peel 63.2%, 32%; lime, peeled fruit 43%, 32%; melons 5%, 1.3%; orange, juice and peel 36.3%, 28%; orange, peeled fruit 43%, 28%; pear 75%, 56%; peppers 15%, 6.3%; potato 5%, 0.3%; spinach 18%, 8.9%; squash 100%, 31%; strawberry 47%, 42%; tangelo 43%, 57%; tangerine, juice 74.3%, 53%; tangerine, fresh 43%, 53%; tomato 8%, 3.7%; walnut 100%, 100%; watermelon 5%, 1.3%. For fresh, peeled citrus a weighted average (43%) was calculated pooling all types of citrus; this value was used in the analysis of chronic dietary exposure from citrus.

The Agency believes that the three conditions, discussed in section 408 (b)(2)(F) in this unit concerning the Agency's responsibilities in assessing chronic dietary risk findings, have been met. With respect to condition 1, EPA finds that the PCT information is reliable and has a valid basis. The Agency has utilized statistical data from a number of public and proprietary sources including USDA/National Agricultural Statistics Service, Doane, Maritz, Kline, and National Center for Food and Agricultural Policy. However, since the risk assessment includes forecast estimates of usage of avermectin B_1 on the new crops being added, the petitioner must seek permission from the Agency to expand usage beyond these estimates (specifically, 14% crop treated for grapes, 15% crop treated for peppers). Before the petitioner can increase production of product for treatment of greater than 115,500 acres for grapes (14% of 825,000 total U.S. acres grown) or 17,850 acres for peppers (15% of 119,000 total U.S. acres grown), permission from the Agency must be obtained. With respect to conditions 2 and 3, the regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the consumption of food bearing avermectin B_1 and its delta-8,9-isomer in a particular area.

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The registrant has submitted an acute dietary exposure assessment using probabilistic "Monte Carlo" modeling incorporating anticipated residue and percent of crop treated refinements to calculate the Anticipated Residue Contribution (ARC). EPA has examined the assumptions made in conducting the analysis for the following crops: celery, strawberry, citrus, tomato, and pear, apple, grape, and pepper. EPA found the analysis adequate with the exception of the acute RfD; the analysis was not conducted with the current acute population adjusted dose (PAD) of 0.00025 mg/kg/day. Residue Data Files (RDF) and percent crop treated were used on all but a few low consumption food items. Reduction factors for fractionation and processing were utilized for citrus and pome fruit. Monitoring data were not used for mixed/blended commodities.

EPA was able to further refine the acute dietary estimate from food by using updated PCT data, resetting the processing factor for dried potatoes to 1 which reflects the non-concentration of

avermectin B_1 in potato processed commodities, correcting the residue files above to use one half the level of detection or one half the level of quantification, where appropriate, and using the average field trial residue level and previously established processing factors for blended commodities. In addition, the analysis included residues in pear juice for which no data has been previously required. Since all other juices show reductions in avermectin B_1 residues from the raw agricultural commodity, EPA will use the reduction factor for apples in the analysis. Some of the resulting high-end exposure estimates are listed below.

The resulting calculations are presented below as a percent of the acute population adjusted dose (%PAD). The PAD is the reference dose (acute or chronic) adjusted for (divided by) the FQPA safety factor. EPA is generally concerned with acute exposures that exceed 100% of the acute RfD/PAD. The risk estimate should be viewed as highly refined. Additional refinement of the almond, basil, cotton seed, hops and walnut residue estimates using RDF's and PCT would be unlikely to reduce risk estimates significantly. In making a safety determination for this tolerance, EPA is taking into account this refined acute exposure assessment.

TABLE 1.— ACUTE DIETARY (FOOD ONLY) RISK FOR SELECTED POPULATION GROUPS

Subgroup	ARC (mg/kg)	PAD (%)
U.S. Population	0.000088	4
All infants (< 1 yr.)	0.000111	44
Nursing infants (< 1 yr.)	0.000112	45
Non-nursing infants (< 1 yr.)	0.000117	47
Children (1–6 yrs.)	0.000176	70
Children (7–12 yrs.)	0.000085	34
Females (13+ yrs. pregnant, non-nursing)	0.000054	22
Females (13+ yrs. nursing)	0.000093	37
Females (13–19 yrs. non-pregnant, non-nursing)	0.000061	24
Females (13–50 yrs.)	0.000070	28
Males (13–19 yrs.)	0.000051	2

ii. *Chronic exposure and risk.* In conducting this chronic dietary (food only) risk assessment, EPA used anticipated residues and percent crop-treated data for many crops. This chronic dietary (food only) exposure should be viewed as a highly refined risk estimate; further refinement using additional percent crop-treated values would not result in a significantly lower dietary exposure estimate. Thus, in making a safety determination for this tolerance, EPA is taking into account this refined chronic exposure assessment. EPA is generally concerned with exposures that exceed 100% of the chronic RfD/PAD. The existing avermectin B_1 tolerances result in an ARC that is equivalent to the following percentages of the RfD or PAD depending on the subpopulation:

TABLE 2.—CHRONIC DIETARY (FOOD ONLY) RISK FOR SELECTED POPULATION GROUPS

Subgroup	ARCFOOD (mg/kg)	PAD (%)
U.S. Population	0.000008	< 1
U.S. Population - autumn season	0.000008	7
Northeast region	0.000008	7
Western region	0.000009	7
Pacific region	0.000009	7
Non-hispanic other	0.000008	7
All infants (< 1 yr.)	0.000016	14
Nursing infants (< 1 yr.)	0.000009	7
Non-nursing infants (< 1 yr.)	0.000020	17
Children (1-6 yrs.)	0.000016	13
Children (7–12 yrs.)	0.000010	8
Females (13+ yrs. nursing	0.000008	6
Males (20+ years)	0.000007	<1

The subgroups listed above are: (1) the U.S. population (48 states); (2) those for infants, children, females 13+, nursing; (3) the other subgroups for which the percentage of the RfD/PAD occupied is greater than that occupied by the subgroup U.S. population; and (4) other subgroups of regulatory interest.

2. *From drinking water.* Avermectin B_1 is moderately persistent and non-mobile. It is not expected to reach surface or ground water in significant quantities. It is stable to hydrolysis at pH 5, 7, and 9. It is also moderately persistent in aerobic soil (topsoil) with half-lives of 37–131 days. The major pathways of avermectin B_1 dissipation are binding to soil and sediment, degradation in aerobic soil, and photolysis in water. In shallow, well-mixed surface water with no suspended sediments, avermectin B_1 degraded rapidly with a photodegradation half-life of 3 days. However, in most surface waters, suspended sediments and lack of mixing would decrease the rate of photodegradation significantly. In water, avermectin B_1 residues would be tightly bound to sediment, reducing aqueous concentrations. There are no Maximum Contaminant Levels (MCL) or Health Advisories (HA) established for avermectin B_1 residues in drinking water.

To calculate exposure and risk from avermectin B_1 in drinking water, the EPA analysis first used screening models to calculate Estimated Environmental Concentrations (EECs) for groundwater (screening concentration in ground water (SCI-GROW2)) and surface water (generic expected environmental concentration (GENEEC)). A refined model (Pesticide Root Zone Model-EXAMS (PRZM-EXAMS)) was then run on surface water (refined models do not exist for ground water but given the screening results it is unlikely that the EECs for ground water would change significantly). The resulting EECs were then compared to the Drinking Water Level of Concern (DWLOC) for various population groups to determine acute and chronic risk.

The screening model SCI-GROW2 was used to calculate EECs for avermectin B_1 in ground water from use in grapes, peppers, and strawberries. Strawberries were analyzed since they represent the highest avermectin B_1 use rate for any crop. These EECs were 0.0015, 0.0015, and .002 µg/L for grapes, peppers, and strawberries, respectively.

PRZM-EXAMS was used to perform a refined assessment of EECs for avermectin B_1 in surface drinking water. Use sites modeled were grapes grown with grassed middles in New York and strawberries grown on black plastic mulch in Florida. Peppers were not modeled because the application rate is lower than that for strawberries. Crop specific consecutive PRZM-EXAMS simulations were conducted to evaluate the cumulative probability distribution for peak, 4–day, 21–day, 60–day, and 90–day EECs. PRZM-EXAMS EECs for avermectin B_1 were 0.18 and 0.88 µg/L for peak values and 0.16 and 0.57 µg/L for 90–day for grape and strawberries, respectively.

EPA decided to rely on the strawberry model to assess aggregate risk since strawberries were considered a higher exposure scenario (four applications per season allowed for strawberries vs. three applications for peppers or two applications for grapes). However, EPA noted that the certainty of the concentrations estimated for strawberries is low, due to uncertainty on the amount of runoff from plant beds covered in plastic mulch and uncertainty on the amount of degradation of avermectin B_1 on black plastic compared to soil. In order to refine the model in the future, the Agency will require the registrant, as a condition of product registration, to conduct additional tests on the effects of plastic mulch on surface water pesticide concentrations.

A Drinking Water Level of Comparison (DWLOC) is a theoretical upper limit of a pesticide's concentration in drinking water in light of total aggregate exposure to that pesticide in food and through residential uses. A DWLOC will vary depending on the toxic endpoint, consumption, and body weight. Different populations will have different DWLOCs. EPA uses DWLOCs internally in the risk assessment process as a surrogate measure of potential exposure associated with pesticide exposure through drinking water. In the absence of monitoring data for pesticides, the DWLOC is used as a point of comparison against conservative model estimates of potential pesticide concentration in water. DWLOC values are not regulatory standards for drinking water.

Acute and chronic exposure and risk. No monitoring data of ground water and surface water are available for avermectin B_1. The SCI-GROW2 modeling data for the grape and chili pepper uses resulted in maximum concentrations in ground water of 0.0015 µg/L for both acute and chronic exposure. Refinements using PRZM–EXAMS indicate a peak EEC in surface water at 0.88 µg/L and a 90–day EEC at 0.57 µg/L. The modeling data were compared to the results of the following equations used to calculate acute and chronic DWLOC for avermectin B_1 in ground and surface water. Additionally, as a result of the retention of the FQPA Safety Factor, EPA considered the PAD for females 13+, infants, and children to be 0.00025 and 0.00012 mg/kg/day for acute and chronic exposure, respectively. For all other populations (e.g. U.S. population, Hispanics, adult males), exposures will be compared to the acute and chronic PADs, 0.0025 and 0.0012 mg/kg/day, respectively.

DWLOC's are calculated as follows: Acute = (acuteRfD/10) - (acute food (mg/kg/day)) × (bodyweight) / consumption (L) × 10^{-3} mg/µg. Chronic = (RfD/10) - (chronic food (mg/kg/day)) × (bodyweight)/consumption (L) × 10^{-3} mg/µg. The 2 liters (L) of drinking water consumed/day by adults and the 1 L per day consumed by children are default assumptions used by the EPA. The Agency's default body weights for the U.S. population and males is 70 kg and for females, 60 kg. EPA's default body weight for children is 10 kg. There are no chronic residential exposures to avermectin B_1.

The results indicate that the exposure to avermectin B_1 in drinking water derived from ground water using SCI-GROW modeling data are below the calculated DWLOC for all population subgroups of concern from use of avermectin B_1 in grapes, peppers and strawberries. Exposure to avermectin B_1 in drinking water derived from surface water using the refined estimates from PRZM-EXAMS and using the results for the crop with the highest use rate (strawberries) the modeled exposure data are below the calculated DWLOC for all population subgroups of concern except for the acute exposure for children 1–6 yrs where the modeled exposure concentration slightly exceeds the DWLOC (0.88 vs. 0.74 µg/L).

Despite this slight exceedance, EPA believes that acute exposure to avermectin from drinking water will not pose an unacceptable risk to human health. Neither surface nor ground water models used by EPA were designed specifically for estimating concentrations in drinking water. There are significant uncertainties in both the toxicology used to derive the DWLOC and the exposure estimate from the PRZM–EXAMS model. EPA has compensated for these uncertainties by using reasonable high-end assumptions. Given this approach, the Agency does not attach great significance to such a small difference. However, EPA may do additional analyses and, as a condition of product registration, the Agency will require the registrant to submit (1) data on the effects of plastic mulch on surface water pesticide concentrations and (2) data characterizing the effectiveness of various types of drinking water treatment on removing avermectin. These data are expected to confirm that the actual concentration of avermectin in drinking water is less than the level of concern for all sub-populations.

3. *From non-dietary exposure.* Avermectin B_1 and its delta-8,9-isomer is currently registered for use on the following residential non-food sites: residential lawns for fire ant control, and residential indoor crack & crevice for cockroaches. Registered residential uses may result in short-term to intermediate exposures. However, based on current use patterns, chronic exposure (6 or more months of continuous exposure) to avermectin B_1 is not expected.

i. *Short and intermediate exposure and risk--residential lawn applications.* For exposure of residential applicators, three scenarios used were: (a) granular bait dispersed by hand, (b) belly grinder-granular open pour-mixer/loader/applicator (MLAP) and (c) push type granular MLAP. Short- and Intermediate-term total MOEs (dermal + inhalation) are greater than 1,000 and therefore do not exceed EPA's level of concern.

For postapplication exposure from treated lawns, EPA default assumptions such as dermal transfer coefficient (Tc), exposure time (ET), hand surface area (SA), ingestion frequency (FQ), residue dissipation, and ingestion rates were used. These defaults were used to estimate postapplication exposure to children and adults from treated lawns. The application rate (AR) used for this assessment is based on the label for Affirm Fire Ant Insecticide (0.011% avermectin B_1). The label recommends a broadcast application rate on lawns of 1 lb of product/acre (1.1E–4 lb ai/acre). This is maximum rate for all registered lawn uses. A margin of exposure (MOE) of 1,000 or greater is required for the most sensitive subgroups. All lawn postapplication MOEs exceeded this value and are therefore not of concern. The dermal short- and intermediate-term MOEs for adults and children are 83,000 and 86,000, respectively. The oral hand-to-mouth short- and intermediate-term MOEs for children are 14,000 and 6,500, respectively. The oral incidental ingestion short- and intermediate-term MOEs for children are 610,000 and 290,000, respectively.

ii. *Short and intermediate exposure and risk--residential indoor crack and crevice uses.* For residential applicators, exposure and risk estimates for homeowners applying crack and crevice baits were estimated using the EPA DRAFT Standard Operating Procedure (SOP) for Residential Exposure Assessments (12/18/97).

The amount of active ingredient (ai) handled was based on the assumption that one 30 gram package of Whitmire Avert Prescription Bait Prescription Treatment 310 (0.05% ai) would be applied in a day. The unit exposure from the EPA default wettable powder, open mixing and loading scenarios was used as a surrogate for estimating dermal and inhalation exposure to residential applicators. The short- and intermediate-term MOEs for dermal and inhalation exposure are each 12 million, which does not exceed EPA's level of concern.

For estimating postapplication exposure and risk from indoor treatment, two postapplication exposure studies were conducted with crack and crevice products containing avermectin B_1: (1) Evaluation of Avert Prescription Treatment 310 Residual Study in Air, Food and on Surfaces, dated November 8, 1990 and (2) Evaluation of Indoor Exposure to a Crack and Crevice Application of Whitmire Avert Crack and Crevice Prescription Treatment 310 and Prescription TC 93A Bait, dated October 27, 1995. The 1990 study reported measured avermectin B_1

concentrations in wipe and air samples up to 7 days following the application. The 1995 study reported non-detect values for all air and surface residue (cotton cloth dosimeters) samples taken.

The EPA noted that neither study met 100% of the Pesticide Assessment Guideline criteria. Among other shortcomings, the 1990 study did not report the amount of avermectin B_1 applied. However, subsequent documentation provided by the study director stated that the application rate in the 1990 study was at least three times greater than the normal label rate.

To be conservative, EPA decided that the values from the 1990 study would be used for this risk assessment. EPA default assumptions for dermal Tc. ET, SA, FQ, inhalation rates, and ingestion rates were used. These defaults were used to estimate children's postapplication exposure to the product Avert Prescription Treatment 310 (dry flowable cockroach bait). According to Table A–1 of the SOP's for Residential Exposure Assessments, the method used for estimating children's postapplication exposure is believed to produce a central to high-end estimate of exposure.

Based on the information available on the study, the air and surface residue values taken from the 1990 study were divided by a factor of 3 to account for the exaggerated application rate used in the study. The avermectin B_1 residue value reported for horizontal residues immediately after the application (4.2E–07 mg/cm^2) was divided by a factor of 3 (1.4E–6 mg/cm 2) and then used to estimate children's dermal and hand-to-mouth exposure. A linear regression analysis was performed on the reported air concentrations at 0 (immediately after), 1, 3 and 7 days after the application to determine the average concentration for the first 21 hours following the application. The analysis indicated an average concentration of avermectin B_1 at 6.4E–04 mg/m^3 (4% dissipation, adjusted R2 = 0.986 for log-transformed data). This value was divided by a factor of 3 (2.1E–4 mg/m^3) and then used to estimate children's inhalation exposure.

The Short- and intermediate-term dermal MOE for children's postapplication dermal is 78,000. The short- and intermediate-term oral MOE for children's postapplication oral hand-to-mouth is 12,000. The short- and intermediate-term inhalation MOE for children's postapplication inhalation is 2,400.

The risk from children's post application exposure to crack and crevice products containing avermectin B_1 does not exceed EPA's level of concern. Avert Prescription Treatment 310 is a dust formulation that is intended for the application to crack and crevices only. Other formulations for similar crack and crevice products (i.e., gels, granulars, pressurized liquids, etc.) will have less migration from the treated area and are expected to result in lower risk from dermal, oral, and inhalation postapplication exposure.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA does not have, at this time, available data to determine whether avermectin B_1 and its delta-8,9-isomer has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, avermectin B_1 and its delta-8,9-isomer does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that avermectin B_1 and its delta-8,9-isomer has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population including Infants and Children

In examining aggregate exposures, FQPA directs EPA to consider available information concerning exposures from the residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from ground or surface water), and exposure through pesticide use in gardens, lawns or buildings (residential and other indoor and/or outdoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

1. *Acute risk.* Acute aggregate exposure takes into account acute dietary food and water exposure. The registrant submitted an acute dietary exposure analysis using probabilistic "Monte Carlo" modeling. EPA has examined the assumptions made in conducting the analysis and has recalculated the assessment using the submitted acute file, the correct acute RfD, updated PCT data, correcting the residue files above to use one half the Level of Detection (LOD) or one half the Level of Quantitation (LOQ) where appropriate, and using the average field trial residue level and previously established processing factors for blended commodities. In addition, EPA's analysis included residues in pear juice for which no data has been previously required. Since all other juices show reductions in avermectin B_1 residues from the raw agricultural commodity, EPA used the reduction factor for apples in the analysis. The dietary (food only) acute %PAD range from 45% for nursing infants < 1 year old to 70% for children 1–6 yrs. This risk estimate should be viewed as highly refined since it used anticipated residue values and percent crop-treated data in conjunction with Monte Carlo analysis. The acute dietary exposure does not exceed EPA's level of concern.

Avermectin B_1 is a moderately persistent but non-mobile compound in soil and water environments. The SCI-GROW modeling data for avermectin B_1 for drinking water derived from ground water sources resulting from use on grapes and peppers indicate levels less than OPP's DWLOC for acute exposure. Using the refined PRZM-EXAMS modeling data for drinking water derived from surface water sources resulting from use on strawberries (the crop with the maximum use rate) also indicates levels less than OPP's DWLOC for acute exposure in all populations with the exception of children 1–6 years old where the peak EEC of 0.88 µg/L slightly exceed this subgroup's acute DWLOC (0.74 µg/L).

Despite this slight exceedance, EPA believes that acute exposure to avermectin from drinking water will not pose an unacceptable risk to human health. Neither surface nor ground water models used by EPA were designed specifically for estimating concentrations in drinking water. There are significant uncertainties in both the toxicology used to derive the DWLOC and the exposure estimate from the PRZM-EXAMS model. EPA has compensated for these uncertainties by using reasonable high-end assumptions. Given this approach, the Agency does not attach great significance to such a small difference. However, EPA may do additional analyses and, as a condition of product registration, the Agency will require the registrant to submit (1) data

on the effects of plastic mulch on surface water pesticide concentrations and (2) data characterizing the effectiveness of various types of drinking water treatment on removing avermectin. These data are expected to confirm that the actual concentration of avermectin in drinking water is less than the level of concern for all subpopulations.

2. *Chronic risk.* Chronic aggregate exposure takes into account chronic exposure via food, water, and residential uses. Since there is no chronic residential exposure to avermectin B_1 only food and water contributed to chronic risk.

Using the exposure assumptions described in this notice, EPA has concluded that aggregate exposure to avermectin B_1 and its delta-8,9-isomer from food will utilize < 1% of the PAD for the U.S. population and will utilize from 6% to 17% of the PAD for infants and children (depending on specific subgroup). The major identifiable subgroup with the highest aggregate exposure is non-nursing infants with 17% of the chronic PAD. EPA generally has no concern for exposures below 100% of the RfD/PAD because the RfD/PAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

Avermectin B_1 is a moderately persistent, but non-mobile compound in soil and water environments. The modeling data for avermectin B_1 indicate chronic water residue levels less than OPP's DWLOC's. EPA does not expect aggregate chronic exposure to avermectin B_1 will pose an unacceptable risk to human health.

3. *Short- and intermediate-term risk.* Short-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus short-term residential uses which include dermal, inhalation, and oral exposures. For children's post-application exposure from crack and crevice uses, the worst case exposure scenario, risks do not exceed EPA's level of concern. The residential uses that were aggregated with chronic dietary food and water are from lawn and crack and crevice uses and include: (1) Adult dermal exposure from the highest adult residential applicator scenario (3.4E–7 mg/kg/day from belly grinder granular open pour) and crack and crevice applicator scenario (2.1E–8 mg/kg/day) with exposure from post-application activities (3.0E–6 mg/kg/day), and inhalation from turf and crack and crevice (3.9E–7 mg/kg/day). (2) Children's oral exposure from turf and crack and crevice hand-to-mouth, with turf incidental ingestion (3.8E–5 mg/kg/day), dermal exposure from turf and crack and crevice (6.1E–6 mg/kg/day), and inhalation exposure from crack and crevice (1.1E–4 mg/kg/day).

Using the exposures above, EPA calculated the short-term DWLOCs. The DWLOC of 8.2 µg/L for the U.S. population is greater than the water EEC's. The DWLOC for infants/children (0.77 µg/L) is greater than the PRZM-EXAMS chronic value of 0.57 µg/L. EPA does not expect aggregate short-term exposure to avermectin B_1 will pose an unacceptable risk to human health.

The worst case intermediate-term exposures to avermectin B_1 for adults are the same as those described above for short-term exposures. Using the exposures above, EPA calculated the adult intermediate-term DWLOC of 8.2 µg/L, which is greater than the water EEC's. EPA does not expect aggregate intermediate-term exposure to avermectin B_1 will pose an unacceptable risk to adult human health.

The worst case intermediate-term exposures to avermectin B_1 for infants and children are the same as those described above. Since the short- and intermediate-term NOAELs are the same, the DWLOC is also equal to the 0.77 µg/L short-term value. Again, given the 0.57 µg/L PRZM-EXAMS value, EPA is not concerned with the residues in drinking water. EPA does not expect aggregate intermediate-term exposure to avermectin B_1 will pose an unacceptable risk to human health.

4. *Aggregate cancer risk for U.S. population.* EPA classified avermectin B_1 as a Cancer Group E chemical based on the absence of significant tumor increases in two adequate rodent carcinogenicity studies.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, infants, or children from aggregate exposure to avermectin B_1 and its delta-8,9-isomer residues.

E. Determination of Safety for Infants and Children

1. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of avermectin B_1 and its delta-8,9-isomer, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and postnatal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

2. *Developmental toxicity studies.* Studies are discussed in Unit III.A.4 of this preamble.

3. *Reproductive toxicity study.* Studies are discussed in Unit III.A.4 of this preamble.

4. *Pre- and postnatal sensitivity.* There was evidence of increased susceptibility to the offspring following pre- and postnatal exposure to avermectin B_1 in the 2–generation reproduction study in rats.

5. *Conclusion.* There is a complete toxicity database for avermectin B_1 and its delta-8,9-isomer and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. The Agency is retaining the 10–fold safety factor for increased susceptibility of infants and children for this pesticide and is applying it to females 13+, infants, and children population subgroups for acute, chronic, and residential exposure.

The 10x Safety Factor is being retained because:

(1) There was evidence of increased susceptibility to the offspring following pre- and postnatal exposure to avermectin B_1 in the two-generation reproduction study in rats.

(2) There is evidence of neurotoxicity manifested as clinical signs of neurotoxicity in mice, rats, and dogs in developmental, reproduction, chronic and/or carcinogenicity studies in mice, rats and/or dogs.

(3) There is concern for Structure Activity Relationship: ivermectin induced cleft palate in fetal rats, and cleft palate and clubbed forefoot in fetal rabbits.

(4) EPA determined that a developmental neurotoxicity study in rats is required for avermectin B_1. This study could provide additional information on potential increased susceptibility, effects on the development of the fetal nervous system, as well as the functional development of the young.

(5) There is concern for post-application exposure to infants and children in treated areas, including incidental hand-to-mouth ingestion of the pesticide.

IV. Other Considerations

A. Metabolism In Plants and Animals

Plant metabolism data have been previously submitted on cotton seed, citrus, and celery. In addition, a report titled "Comparative Degradation of Avermectin B_{1a} in Cotton Leaf, Citrus Fruit, Celery, and *In Vitro*" was submitted. The proposed use in this petition on grapes and chili peppers specifies multiple applications up to a maximum application rate on grapes of 32 fl oz/A/season (0.038 lb ai/A/season) and on peppers of 48 oz/A/season (0.057 lb ai/A/season). Previously, the metabolism components have been examined from radio-labeled avermectin B_1 on celery (10 applications at 7 day intervals for a total equivalent of 1.0 lb ai/A/season), radio-labeled avermectin B_1 on cotton (3 applications at 50 to 89 day intervals for a total equivalent of 0.60 lb/A/season), and exaggerated application rates to citrus (30X, 2.25 lb ai/A). The available metabolism data on cotton, celery, and citrus represent a wide enough range of crop matrices, growth modes, and use rates. It is unlikely that application of avermectin B_1 to grapes and chili peppers will result in new degradation compounds that have not previously been produced and subjected to toxicity testing. EPA concludes that the metabolism data are sufficient (a) to support the proposed use on grapes and chili peppers and (b) to support the recommended tolerance on cotton gin byproducts. The residues of concern in/on grapes, chili pepper, and cotton gin byproduct commodities are the parent compound (avermectin B_{1a} and B_{1b}) and its delta-8,9-isomer.

Since there are no grape or chili pepper animal feed items of regulatory concern, a discussion of animal metabolism is not germane to petition PP 7F4844.

Animal metabolism data were not submitted in conjunction with cotton petition (PP 7F3500). However, the metabolism of avermectin in goat and rat has been reviewed. From these studies, it was determined that the residues of concern in ruminants are avermectin B_{1a} and B_{1b} and their delta-8,9-isomers. This conclusion was based upon a feeding level of 1.0 mg/goat/day of ^{3}H-avermectin. An additional metabolite (24-hydroxymethyl avermectin B_{1a}) was identified and is potentially of toxicological significance, but was not included in the tolerance expression because of its presence at low levels. However, EPA notes that if the livestock dietary burden is increased and the tolerances for residues in meat and milk need to be raised, then the 24-hydroxymethyl metabolite may need to be included in the tolerance expression and appropriate enforcement methods would need to be developed. Furthermore, an additional animal metabolism study using ^{14}C-avermectin would be needed if the expected ruminant dietary burden exceeded the dose level in the previously submitted goat metabolism study. EPA concludes the available ruminant metabolism study is adequate to support the proposed tolerances for avermectin on cotton gin byproducts.

Cotton gin byproducts are not a poultry feed item. Therefore a discussion of metabolism and secondary residues in poultry commodities is not pertinent to petition PP 7F3500.

B. Analytical Enforcement Methodology

The registrant has used the analytical procedure designated Method 91–1 for data gathering purposes in these grape and chili pepper field trials for avermectin B_1 and its delta-8,9-isomer. Acceptable independent method validations (ILV) were submitted for both commodities. The samples are extracted with acetonitrile/water/hexane, cleaned up with an aminopropyl column, and derivatized with trifluoroacetic anhydride. Quantitation of the residues of interest is accomplished by high performance liquid chromatography (HPLC) with fluorescence detector. The LOQ varies from .001 ppm for grapes to .004 ppm for chili peppers. Method 91–1 is adequate for data collection purposes. Method 91–1 is somewhat similar to the registrant's method for hops, Method M–036.2, which has been submitted for inclusion in FDA's PAM II. Since they are similar, Method M–036.2 is adequate for tolerance enforcement.

Residues of avermectin B_1 and 8,9-Z avermectin B_1 in cotton gin byproducts were determined using a modification of Method M–078. Samples are extracted with a methanol-water mixture. The avermectins are partitioned into hexane and the hexane extract is purified/concentrated on an NH2 SPE column. The purified extract is derivatized with trifluoroacetic anhydride. The derivatized avermectins are analyzed by reversed phase HPLC with fluorescence detection. The avermectin B_{1a} standard is used to calculate the concentration of avermectin B_{1a} + 8,9-Z avermectin B_{1a} and avermectin B_{1b} + 8,9-Z avermectin B_{1b} in/on the sample. The modifications made to Method M–078 included using a higher HPLC flow rate, preparing the standard solutions at different concentrations, centrifuging the samples with emulsions after shaking, and using equipment, apparatus, and chemical manufacturers which were different from those specified in the method. The limit of detection (LOD) is 0.001 ppm; the LOQ is 0.002 ppm. The method was validated by fortifying control gin trash samples and analyzing them concurrently with the treated and control samples. Method M–078 is very similar to the registrant's method for hops, Method M–036.2, which has been submitted for inclusion in FDA's PAM II. Since they are very similar and method recovery is good, Method M–078 is adequate for enforcement purposes.

Merck Method 32A is available for enforcing avermectin tolerances in bovine tissues and milk. This method has been published in PAM II (Method II).

Avermectin B_1 is not recovered using FDA multi-residue protocol A described in PAM I.

C. Magnitude of Residues

The residue field trial data on grapes submitted with this petition are adequate to support the proposed use. The highest residue found on grapes at the 28–day pre-harvest interval (PHI) was 6.7 ppb (0.007 ppm). This supports the tolerance of 0.02 ppm proposed by the registrant.

The residue field trial data on chili peppers submitted with this petition are adequate to support the proposed use. The highest residue found on chili peppers at the 7– day PHI was < 5 parts per billion (ppb) (< 0.005 ppm). This supports the tolerance of 0.01 ppm on peppers proposed by the registrant. However, the originally submitted Section F lists chili peppers not peppers. In order to harmonize with international residue limits discussed below, the Section F was revised to express the tolerance as 0.02 ppm on peppers.

The grape processing study and existing storage stability database are adequate to support the proposed tolerance on juice. The highest residues found on commodities of regulatory concern were < 2 ppb (< 0.002 ppm) in juice. This supports the requested tolerance of 0.02 ppm on grape juice. However, since the processing study shows that avermectin B_1 does not concentrate in juice, a tolerance on grape juice is not required.

Starting with raw grapes bearing residues of 10 ppb, the highest avermectin B_1 residues found on raisins were 10.2 ppb (0.01 ppm). The results of the raisin storage stability study indicate that the residues in raisins could have been as high as 20 ppb (2x concentration factor, based on < 50% recoveries). Using this concentration factor and the highest grape field trial value of 0.007 ppm, residues in raisins would be 0.014 ppm versus the grape tolerance of 0.02 ppm. Therefore, even taking into account the poor recoveries from the raisin storage stability study, a tolerance for raisins is not necessary. Since tolerances are not needed for processed grape food items, the Section F was revised to express the tolerance as grapes.

There are no chili pepper processed food items; therefore a discussion of processed food items is not germane to this action.

Since there are no grape or pepper animal feed items of regulatory interest, secondary avermectin B_1 residues in meat, milk, poultry, and eggs will not be increased by the proposed tolerances for these crops.

To support the tolerance on cotton gin byproducts, the petitioner has submitted the results of eight field trials on cotton using the maximum labeled rate. The existing storage stability database is adequate to support the cotton gin byproduct analyses. The highest residue level obtained was 0.101 ppm. The PHI was slightly longer than that specified on the label, however. The label specifies a PHI of 20 days; the PHI used in the field trails was 25 days. EPA has concluded that the data support the establishment of a tolerance of 0.15 ppm for the residues of avermectin in/on cotton gin byproducts.

Since cotton gin byproducts are a feed item for some livestock an analysis was performed to calculate the dietary burden in these animals. Cotton gin byproducts are not a feed item for poultry or swine; these commodities were not included in the analysis. Cotton gin byproducts can comprise up to 20% of the diets of both beef and dairy cattle. The following animal feed items are associated with commodities with avermectin registrations: almond hulls, wet apple pomace, dried citrus pulp, cotton seed, potato culls, and potato waste. Of these commodities, cotton seed meal is the only highly nutritive one. The others mainly provide fiber to the diet. Cotton seed meal will be distributed to all parts of the country, but the others will not. Therefore, it is reasonable to construct a dietary burden with cotton seed meal and only one of the other "esoteric" feed items. Wet apple pomace would contribute the highest residues to the diet, therefore a dietary burden was constructed using cotton seed meal and apple pomace. The feeding study was done at 3 different feeding levels: 0.010 ppm, 0.030 ppm, and 0.10 ppm. The dietary burden constructed with cotton seed and apple pomace is essentially the same as the highest feeding level: 0.10 ppm. The established tolerances are adequate to cover this dietary burden. As the tolerances will not change, it is not necessary to perform a dietary exposure analysis. EPA concludes that residues present in animal commodities will not increase over current levels. Therefore, it is not necessary to increase the established tolerances for animal commodities. Furthermore, the establishment of a tolerance for cotton gin byproducts does not affect risk to human health as animal commodity tolerances will not be affected by the establishment of this tolerance.

D. International Residue Limits

There are no Codex, Canadian, or Mexican Maximum Residue Limits (MRL) for avermectin B_1 on grapes, grape processed commodities. Therefore, international harmonization is not an issue for the action on grapes.

There are no Canadian or Mexican MRLs for avermectin B_1 on peppers. There is a Codex MRL for avermectin B_{1a}, B_{1b}, (*Z*)-8,9-avermectin B_{1a}, and (*Z*)-8,9-avermectin B_{1b} on sweet peppers at 0.02 ppm. The regulable residues for the U.S. and Codex are identical. In order to harmonize with this MRL, the Section F was revised to express the tolerance for avermectin B_1 and its delta-8.9-isomer as 0.02 ppm on peppers.

There are no Codex, Canadian, or Mexican MRLs for avermectin B_1 on cotton gin by-products. Therefore, international harmonization is not an issue for cotton gin by-products. A Codex MRL has been established for cotton seed: 0.01 ppm. This MRL differs from the proposed permanent tolerance for cotton seed: 0.005 ppm.

E. Rotational Crop Restrictions

Review of the results of the confined rotational crop study indicated that avermectin B_1 residues accumulated in some rotational crops at levels up to 10 – 12 ppb. However, the radioactivity was due to polar degradates that were of little toxicological concern as compared to the parent compound avermectin B_1 and/or the delta-8,9-isomer. Therefore, the requirements for field rotational crop studies have been waived.

V. Conclusion

Therefore, the tolerance is established for combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer in grapes at 0.02 ppm, peppers at 0.02 ppm, and cotton gin byproducts at 0.15 ppm. Furthermore, the following tolerances which were previously time-limited (expiring September 1, 1999) are now made permanent: cattle, fat at 0.015 ppm; cattle, meat byproducts at 0.02 ppm; cattle, meat at 0.02 ppm; citrus, dried pulp at 0.10 ppm; citrus, oil at 0.10 ppm; citrus, whole fruit at 0.02 ppm; cotton seed at 0.005 ppm; hops, dried at 0.20 ppm; milk at 0.005 ppm; and potatoes at 0.005 ppm.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to "object" to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP-300916 in the subject line

on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before November 8, 1999.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St. SW. Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Room M3708, Waterside Mall, 401 M St. SW. Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m. Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission be labeling it "Tolerance Petition Fees."

EPA is authorized to waive any fee requirement "when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection." (cite). For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW. Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A. of this preamble, you should also send a copy of your request to the PIRB for its inclusion in the official record that is described in Unit I.B.2. of this preamble. Mail your copies, identified by docket number OPP–300916, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW. Washington, DC 20460. In person or by courier, bring a copy to the location of the PRIB described in Unit I.B.2. of this preamble. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). The Agency has determined that this action will not have a substantial direct effect on 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, as specified in Executive Order 12612, entitled *Federalism* (52 FR 41685, October 30, 1987). This action directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. section 346a(b)(4). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: August 31, 1999.

Richard P. Keigwin, Jr.,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 321(q), (346a), and 371.

2. Section 180.449 is amended by revising paragraph (a) to read as follows:

§ 180.449 Avermectin B_1 and its delta-8,9-isomer; tolerances for residues.

(a) *General.* Tolerances are established for the combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-*O*-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-*O*-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer in or on the following commodities:

Commodity	Parts per million
Almonds	0.005
Almond, hulls	0.10
Apples	0.020
Apples, pomace (wet)	0.10
Cattle, fat	0.015
Cattle, mbyp	0.02
Cattle, meat	0.02
Celery	0.05
Citrus, dried pulp	0.10
Citrus, oil	0.10
Citrus whole fruit	0.02
Cotton gin by-products	0.15
Cotton seed	0.005
Cucurbits (cucumbers, mellons, and squashes)	0.005
Grapes	0.02
Hops, dried	0.20
Lettuce, head	0.05
Milk	0.005
Pears	0.02
Peppers	0.02
Potatoes	0.005
Strawberry	0.02
Tomatoes, fresh	0.01
Walnuts	0.005

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[FR Doc. 99–23194 Filed 9–3–99; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1806, 1813, 1815, 1835, 1852, and 1872

Implementing Foreign Proposals to NASA Research Announcements on a No-Exchange-of-Funds Basis

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: This is an interim rule to revise the NASA FAR Supplement (NFS) to conform the handling of foreign proposals under NASA Research Announcements (NRAs) with that under Announcements of Opportunity (AOs).

DATES: *Effective Date:* This rule is effective September 7, 1999.

Applicability Date: This rule applies to NRAs and AOs issued on or after September 7, 1999.

Comment Date: Comments should be submitted to NASA at the address shown below on or before November 8, 1999.

ADDRESSES: Interested parties should submit written comments to: Celeste Dalton, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546. Comments may also be submitted by email to celeste.dalton@hq.nasa.gov.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, (202) 358–1645, email: *celeste.dalton@hq.nasa.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

NASA uses NRAs and AOs to solicit research proposals from both U.S. and non-U.S. sources. Because of NASA's policy to conduct research with foreign entities on a cooperative, no-exchange-of-funds basis, NASA does not normally fund foreign research proposals or foreign research efforts that are part of U.S. research proposals. Rather, cooperative research efforts are normally implemented via international agreements between NASA and the foreign entity involved. Thus, foreign proposers, whether as primary proposers or as participants in U.S. research efforts, are expected to arrange for financing for their portion of the research. This rule will implement NASA's policy for NRAs and make it consistent with the existing policy for AOs contained in NASA FAR Supplement (NFS) Part 1872, which requires foreign research to be implemented on a no-exchange-of-funds basis. Additional changes are made to NFS Part 1872 for consistency in the treatment of foreign proposals under NRAs and AOs. Treatment of late proposals under NRAs and AOs is clarified and subcontracting plans (when applicable) are added to the items required of selectees under NRAs. Other editorial changes are made to revise several references to the NASA Office of External Relations.

B. Regulatory Flexibility Act

NASA certifies that this interim rule will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), because it only affects small business entities in the rare circumstance when such entities team with a foreign entity in response to an NRA.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the NFS do not impose any recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Interim Rule

In accordance with 41 U.S.C. 418(d), NASA has determined that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary to ensure that NRAs reflect NASA's policy that foreign research be implemented on a no-exchange-of-funds basis, and that foreign proposals received in response to NRAs are handled in accordance with the existing policy for AOs contained in NFS Part 1872. However, pursuant to Public Law 98–577 and FAR 1.501, public comments received in response to this interim rule will be considered in the formation of the final rule.

List of Subjects in 48 CFR Parts 1806, 1813, 1815, 1835, 1852, and 1872

Government procurement.

Tom Luedtke,

Associate Administrator for Procurement.

Accordingly, 48 CFR Parts 1806, 1813, 1815, 1835, 1852, and 1872 are amended as follows:

1. The authority citation for 48 CFR Parts 1806, 1813, 1815, 1835, 1852, and 1872 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1806—COMPETITION REQUIREMENTS

2. In paragraph (d) to section 1806.303–1, "International Relations Division (Code IR)" is revised to read "Office of External Relations (Code I)".

PART 1813—SIMPLIFIED ACQUISITION PROCEDURES

3. Section 1813.000 is revised to read as follows:

1813.000 Scope of part.

FAR Part 13 and 1813 do not apply to NASA Research Announcements and Announcements of Opportunity. These acquisitions shall be conducted in accordance with the procedures in 1835.016–71 and 1872, respectively. If awards are to be made as procurement instruments, they shall be made as bilateral contracts rather than purchase orders.

PART 1815—CONTRACTING BY NEGOTIATIONS

4. In paragraph (b)(3) to section 1815.300–70, the reference "(see 1835.016–70)" is revised to read "(see 1835.016–71)".

5. In the introductory text to section 1815.606–70, the reference "(see 1835.016–70)" is revised to read "(see 1835.016–71)".

PART 1835—RESEARCH AND DEVELOPMENT CONTRACTING

6. In paragraph (a)(i)(B) to section 1835.016, the reference "(see 1835.016–70)" is revised to read "(see 1835.016–71)".

7. Section 1835.016–70 is redesignated as section 1835.016–71 and a new section 1835.016–70 is added to read as follows:

1835.016–70 Foreign participation under broad agency announcements (BAAs).

(a) Policy.

(1) NASA seeks the broadest participation in response to broad agency announcements, including foreign proposals or proposals including foreign participation. NASA's policy is to conduct research with foreign entities on a cooperative, no-exchange-of-funds basis (see NPD 1360.2, Initiation and Development of International Cooperation in Space and Aeronautics Programs). NASA does not normally fund foreign research proposals or foreign research efforts that are part of U.S. research proposals. Rather, cooperative research efforts are implemented via international agreements between NASA and the sponsoring foreign agency or funding/sponsoring institution under which the parties agree to each bear the cost of discharging their respective responsibilities.

(2) In accordance with the National Space Transportation Policy, use of a non-U.S. manufactured launch vehicle is permitted only on a no-exchange-of-funds basis.

(3) NASA funding may not be used for subcontracted foreign research efforts. The direct purchase of supplies and/or services, which do not constitute research, from non-U.S. sources by U.S. award recipients is permitted.

(b) Procedure. When a foreign proposal or a U.S. proposal with foreign participation is received in response to a BAA, the NASA sponsoring office shall determine whether the proposal conforms to the no-exchange-of-funds policy in 1835.016–70(a).

(1) If the proposal conforms to the policy in 1835.016-70(a), the NASA sponsoring office shall evaluate the proposal and make selection in accordance with 1835.016–71(d). In conjunction with the notification of successful foreign proposers, the NASA sponsoring office shall notify the Headquarters Office of External Relations, Code I. Code I will negotiate the agreement with the sponsoring foreign agency or funding institution for the proposed participation.

(2) If the proposal does not conform to the policy in 1835.016–70(a), the NASA sponsoring office shall:

(i) Determine whether the proposal merits further consideration;

(ii) If further consideration is warranted, refer the proposal to Code I; and

(iii) Complete the evaluation of the proposal. However, no notification of selection, whether tentative or final, shall be made without Code I approval.

(3) Notification to Code I required by paragraphs (b)(1) and (b)(2)(ii) of this section, shall address the items contained in 1872.504(c), and shall be coordinated through the Office of Procurement, Code HS.

8. In the newly redesignated section 1836.016–71, paragraph (e)(3) is revised to read as follows:

1835.016–71 NASA Research Announcements.

* * * * *

(e) * * *

(3) Request the offeror to complete and return certifications and representations and Standard Form 33, Solicitation, Offer, and Award, or other appropriate forms. If FAR 52.219–9, Small Business Subcontracting Plan, is required for the resultant contract, request the offeror to provide a subcontracting plan.

* * * * *

9. Section 1835.016–72 is added to read as follows:

1835.016–72 Foreign participation in NRA proposals.

Foreign proposals or U.S. proposals with foreign participation shall be treated in accordance with 1835.016–70. Additional guidelines applicable to foreign proposers are contained in the provision at 1852.235–72, Instructions for responding to NASA Research Announcements.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. In Section 1852.235–72, the date of the provision is revised, paragraph (c)(8) heading is revised, paragraph (c)(8)(iv) is added, paragraph (g) is revised, paragraph (l) is redesignated as paragraph (m) and a new paragraph (l) is added to read as follows:

1852.235–72 Instructions for responding to NASA Research Announcements.

* * * * *

Instructions for Responding to NASA Research Announcements (Aug. 1999)

* * * * *

(c) * * *

(8) Proposed Costs (U.S. Proposals Only).

* * * * *

(iv) Use of NASA funds—NASA funding may not be used for foreign research efforts at any level, whether as a collaborator or a subcontract. The direct purchase of supplies and/or services, which do not constitute research, from non-U.S. sources by U.S award recipients is permitted. Additionally, in accordance with the National Space Transportation Policy, use of a non-U.S. manufactured launch vehicle is permitted only on a no-exchange-of-funds basis.

* * * * *

(g) Late Proposals. Proposals or proposal modifications received after the latest date specified for receipt may be considered if a significant reduction in cost to the Government is probable or if there are

significant technical advantages, as compared with proposals previously received.

* * * * *

(l) Additional Guidelines Applicable to Foreign Proposals and Proposals Including Foreign Participation.

(1) NASA welcomes proposals from outside the U.S. However, foreign entities are generally not eligible for funding from NASA. Therefore, proposals from foreign entities should not include a cost plan unless the proposal involves collaboration with a U.S. institution, in which case a cost plan for only the participation of the U.S. entity must be included (unless otherwise noted in the NRA). Proposals from foreign entities and proposals from U.S. entities that include foreign participation must be endorsed by the respective government agency or funding/sponsoring institution in the country from which the non-U.S. participant is proposing. Such endorsement should indicate that the proposal merits careful consideration by NASA, and if the proposal is selected, sufficient funds will be made available to undertake the activity as proposed.

(2) When a "Notice of Intent" to propose is required, prospective foreign proposers should write directly to the NASA official designated in the NRA and send a copy of this letter to NASA's Office of External Relations at the address in paragraph (l)(3) of this provision.

(3) In addition to sending the requested number of copies of the proposal to the designated address, one copy of the proposal, along with the Letter of Endorsement from the sponsoring non-U.S. government agency or funding/sponsoring institution must be forwarded to: National Aeronautics and Space Administration, Code I, Office of External Relations, (NRA Number), Washington, DC 20546–0001, USA.

(4) All foreign proposals must be typewritten in English and comply with all other submission requirements stated in the NRA. All foreign proposals will undergo the same evaluation and selection process as those originating in the U.S. All proposals must be received before the established closing date. Those received after the closing date will be treated in accordance with paragraph (g) of this provision. Sponsoring foreign government agencies or funding institutions may, in exceptional situations, forward a proposal without endorsement to the above address if endorsement is not possible before the announced closing date. In such cases, NASA's Office of External Relations should be advised when a decision on endorsement can be expected.

(5) Successful and unsuccessful non-U.S. proposers will be contacted directly by the NASA sponsoring office. Copies of these letters will be sent to the sponsoring government agency or funding institution. Should a foreign proposal or a U.S. proposal with foreign participation be selected, NASA's Office of External Relations will arrange with the foreign sponsoring agency or funding institution for the proposed participation on a no-exchange-of-funds basis, in which NASA and the non-U.S. sponsoring agency or funding institution will each bear the cost of discharging their respective responsibilities.

(6) Depending on the nature and extent of the proposed cooperation, this arrangement may entail:

(i) A letter of notification by NASA;

(ii) An exchange of letters between NASA and the sponsoring foreign governmental agency; or

(iii) A formal Agency-to-Agency Memorandum of Understanding (MOU).

* * * * *

PART 1872—ACQUISITION OF INVESTIGATIONS

11. Section 1872.306 is revised to read as follows:

1872.306 Announcement of opportunity soliciting foreign participation.

Foreign proposals or U.S. proposals with foreign participation shall be treated in accordance with 1835.016–70. Additional guidelines applicable to foreign proposers are contained in the Management Plan Section of Appendix B and must be included in any Guidelines for Proposal Preparation or otherwise furnished to foreign proposers.

12. In paragraphs (b)(6), (c) introductory text, and (d) to section 1872.504, the phrase "International Affairs Division," is removed.

13. In section 1872.705–1, paragraph VII is revised to read as follows:

1872.705–1 Appendix A: General Instructions and Provisions.

* * * * *

VII. Late Proposals

Proposals or proposal modifications received after the latest date specified for receipt may be considered if a significant reduction in cost to the Government is probable or if there are significant technical advantages, as compared with proposals previously received.

14. In section1872.705–2, paragraphs (*a*)(*3*)(i), (ii), (iv), (vi) and the introductory text of paragraph (*a*)(*3*)(viii) of the Management Plan and Cost Plan are revised, paragraph (*b*)(e) is redesignated as (*b*)(3) and paragraph (*b*)(4) is added to read as follows.

1872.705–2, Appendix B: Guidelines for Proposal Preparation

* * * * *

Management Plan and Cost Plan

(*a*) * * *

(*3*) * * *

(i) Where a "Notice of Intent" to propose is requested, prospective foreign proposers should write directly to the NASA official designated in the AO and send a copy of this letter to NASA, Code I, Office of External Relations, Washington, DC 20546, U.S.A.

(ii) Unless otherwise indicated in the AO, proposals will be submitted in accordance with this Appendix. Proposals should be typewritten and written in English. Foreign entities are generally not eligible for funding from NASA. Therefore, proposals from foreign entities should not include a cost plan unless the proposal involves collaboration with a U.S. institution, in which case a cost plan for only the participation of the U.S. entity must be included (unless otherwise noted in the AO).

* * * * *

(iv) Proposals including the requested number of copies and letters of endorsement from the foreign governmental agency must be forwarded to NASA in time to arrive before the deadline established for each AO. These documents should be sent to: National Aeronautics and Space Administration, Code I, Office of External Relations, Washington, DC 20546, U.S.A.

* * * * *

(vi) Shortly after the deadline for each AO, NASA's Office of External Relations will advise the appropriate sponsoring agency which proposals have been received and when the selection process should be completed. A copy of this acknowledgment will be provided to each proposer.

* * * * *

(viii) NASA's Office of External Relations will then begin making the arrangements to provide for the selectee's participation in the appropriate NASA program. Depending on the nature and extent of the proposed cooperation, these arrangements may entail:

* * * * *

(*b*) * * *

(4) Use of NASA funds. NASA funding may not be used for foreign research efforts at any level, whether as a collaborator or a subcontract. The direct purchase of supplies and/or services, which do not constitute research, from non-U.S. sources by U.S award recipients is permitted. Additionally, in accordance with the National Space Transportation Policy, use of a non-U.S. manufactured launch vehicle is permitted only on a no-exchange-of-funds basis.

[FR Doc. 99–23065 Filed 9–3–99; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–99–6185]

RIN 2127–AH70

Federal Motor Vehicle Safety Standards; Stopping Distance Table

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; technical amendment.

SUMMARY: On March 10, 1995, we published in the **Federal Register** (60 FR 13297) a final rule establishing

stopping distance requirements for hydraulically-braked vehicles with gross vehicle weight ratings (GVWR) greater than 10,000 pounds. The requirements specified the distances in which different types of medium and heavy vehicles must come to a stop from 60 mph. There was an error in that rule with regard to Table II—*Stopping Distances,* which contains the applicable stopping distance requirements. The superscripts in the table identifying specifications for school buses were misplaced. This rule amends the hydraulic brake standard to correct the location of the superscripts in Table II.

DATES: The correcting amendments to Table II are effective October 7, 1999.

FOR FURTHER INFORMATION CONTACT:

For non-legal issues: Mr. Samuel Daniel, Jr., Office of Crash Avoidance Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202) 366–4921.

For legal issues: Mr. Edward Glancy, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington D.C. 20590 (202) 366–2992.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. March 10, 1995, Final Rule, Stopping Distance Requirements for Vehicles Equipped With Hydraulic Brake Systems

On March 10, 1995, we published a final rule, Docket No. 93–07, Notice 3, which, among other things, established stopping distance requirements in Federal Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems,*[1] for hydraulically-braked vehicles with GVWRs of over 10,000 pounds (60 FR 13297). The rule specified the distances in which different types of medium and heavy vehicles must come to a stop from a speed of 60 miles per hour (mph) on a high coefficient of friction surface. The rule also established a stopping distance requirement of 70 feet (ft.) for a 30-mph second effectiveness test applicable to school buses.

B. Petition for Reconsideration of the March 10, 1995, Final Rule

Navistar International Transportation Corporation (Navistar) filed a Petition for Reconsideration on April 5, 1995, requesting that we increase the stopping distance requirement for the 30-mph second effectiveness test for school buses from 70 ft to 78 ft or in the alternative, to delete the requirement altogether. Navistar indicated in its petition that "significant development work would be required" to bring school buses into compliance with the 70-ft. stopping requirement. Single unit vehicles other than school buses are allowed a distance of 78 ft. for the 30 mph second effectiveness test, although at this time the standard does not require a 30 mph second effectiveness test for non-school bus vehicles with GVWRs greater than 10,000 pounds.

II. December 13, 1995, Final Rule, Petitions for Reconsideration

NHTSA published a Final Rule, Petitions for Reconsideration, on December 13, 1995 (60 FR 63965), responding to the petitions received in response to the Final Rule of March 10, 1995. We stated in Section X D. of the preamble that Table II, which contains the stopping distance requirements for Standard No. 105, would be corrected in that notice. However, a correction to Table II was inadvertently omitted from the December 1995 final rule.

III. Discussion

A. School Bus Stopping Distance for 30-mph Test

Navistar again petitioned us on September 18, 1998, to correct the errors in Table II of Standard No. 105. Specifically, that company stated that the 30-mph stopping distance in the second effectiveness test for school buses should be changed from 70 feet to 78 feet. Additionally, Navistar cited the errors in the location of the superscripts that designate the test applicability and vehicle type for the 30-mph second effectiveness test stopping distances.

We believe that Navistar did not provide sufficient justification for the economic hardship cited and also continue to believe that the 70-ft. stopping distance requirement for school buses can be achieved without significant economic burden for manufacturers. No other school bus manufacturer has reported any hardship in meeting the 70-ft. stopping distance requirement. When we contacted Navistar to ask for some additional information about the hardship, that company indicated it was withdrawing its request that the stopping distance be increased. Therefore, no change is being made to the existing school bus stopping distance requirements.

B. Correction of Table II

This document corrects Table II of Standard No. 105 to move the superscripts 1 and 2 from column d to column e in the second effectiveness test for school buses. As previously stated, the agency inadvertently omitted this change to the standard in the December 13, 1995, final rule.

C. Good Cause

We find for good cause that notice and the opportunity to comment on this correction are unnecessary and contrary to the public interest. This document corrects an obvious error that was not corrected three years ago. The erroneous superscripts that currently appear in Table II can only confuse and mislead the public about the requirements for school bus braking performance.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impacts of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. In connection with the March 1995 final rules, the agency prepared a Final Regulatory Evaluation (FRE) describing the economic and other effects of this rulemaking action. For persons wishing to examine the full analysis, a copy is in the agency's public docket.

B. Regulatory Flexibility Act

NHTSA has also considered the effects of this correction notice under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a final regulatory flexibility analysis.

NHTSA concluded that the March 1995 final rule had no significant impact on a substantial number of small entities. Today's correction notice also will not have a significant economic impact on a substantial number of small entities.

[1] Standard No. 105 has since been renamed *Hydraulic and Electric Brake Systems.*

C. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

D. Executive Order 12612 (Federalism)

NHTSA has analyzed this action under the principles and criteria in Executive Order 12612. The agency has determined that this notice does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. No State laws will be affected.

E. Civil Justice Reform

This final rule does not have any 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, the agency amends 49 CFR, Part 571, as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

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

§ 571.105 [Amended]

2. Section 571.105 is amended by revising Table II to read as follows:

* * * * *

BILLING CODE 4910–59–P

TABLE II - STOPPING DISTANCES

Vehicle Test Speed (miles per hour)	Stopping Distance in feet for tests indicated															
	I-1st (preburnished) & 4th effectiveness; spika effectiveness check				II-2d effectiveness				III-3d (lightly loaded vehicles) effectiveness					IV-Inoperative brake power and power essist unit; partial feilure		
	(a)	(b)	(c)	(d)	(a)	(b) & (c)	(d)	(e)	(a)	(b)	(c)	(d)	(e)	(a)	(b) & (c)	(d) & (e)
30	[1]57	[1,2]65	[1,2]69 (1st) [1,2]65 (4th end spike) [1]72	88	[1]54	[1]57	78	[1,2]70	51	57	65	84	70	114	130	170
35	74	83	91	132	70	74	106	96	67	74	83	114	96	155	176	225
40	96	108	119	173	91	96	138	124	87	96	108	149	124	202	229	288
45	121	137	150	218	115	121	175	158	110	121	137	189	158	257	291	358
50	150	169	185	264	142	150	216	195	135	150	169	233	195	317	359	435
55	181	204	224	326	172	181	261	236	163	181	204	281	236	383	433	530
60	[1]216	[1]242	[1]267	388	[1]204	[1]216	[1]310	[1]280	[1]194	[1]216	[1]242	[1]335	[1]280	[1]456	[1]517	[1]613
80	[1]405	[1]459	[1]510	NA	[1]383	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
95	[1]607	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
100	[1]673	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

[1] Distance for specified tests. [2] Applicable to school buses only. NA = Not applicable

Note: (a) Passenger cars; (b) vehicles other than passenger cars with GVWR of less than 8,000 lbs; (c) Vehicles with GVWR of not less than 8,000 lbs and not more than 10,000 lbs; (d) vehicles, other than buses, with GVWR greater than 10,000 lbs; (e) buses, including school buses, with GVWR greater than 10,000 lbs.

* * * * *

Issued on: August 30, 1999.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 99–23226 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–59–C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

Consumer Information Regulations

CFR Correction

In Title 49 of the Code of Federal Regulations, parts 400 to 999, revised as of Oct. 1, 1998, page 798, § 575.104 is corrected by reinstating the equation following the introductory text of paragraph (e)(2)(ix)(E)(*2*) to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

(e) * * *

(2) * * *

(ix) * * *

(E) * * *

(*2*) * * *

$$\text{Projected mileage} = \frac{-1000(Yo - 62)}{mc} + 800$$

* * * * *

[FR Doc. 99–55528 Filed 9–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AE65

Migratory Bird Permits; Amended Certification of Compliance and Determination that the States of Vermont and West Virginia Meet Federal Falconry Standards

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We are adding the States of Vermont and West Virginia to the list of States whose falconry laws meet or exceed Federal falconry standards. These States will now be participants in the cooperative Federal/State permit application program, and falconry can now be practiced in those States. The list of States that meet Federal falconry standards, including Vermont and West Virginia, is included in this final rule. This rule also amends the regulations on State compliance to clarify the administrative procedure that States need to follow to comply with Federal falconry standards.

DATES: This rule is effective September 7, 1999.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Jonathon Andrew, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, telephone 703/358–1834.

SUPPLEMENTARY INFORMATION:

Regulations in 50 CFR part 21 provide that we review and approve State falconry laws before falconry can be practiced in those States. A list of the States whose falconry laws have been approved is found in 50 CFR 21.29(k). In accordance with the requirements of 50 CFR 21.29(a) and (c), we reviewed certified copies of the falconry regulations adopted by the States of Vermont and West Virginia and determined that they meet or exceed our Federal falconry standards. Our standards, contained in 50 CFR 21.29(d) through (i), include permit requirements, classes of permits, examination procedures, facilities and equipment standards, raptor marking, and raptor taking restrictions. Both Vermont and West Virginia regulations also meet or exceed all the restrictions or conditions found in 50 CFR 21.29(j), which include requirements on the number, species, acquisition, possession of feathers, and marking of raptors. Therefore, we have included them in the section 21.29(k) list of States that meet the Federal falconry standards. The listing eliminates the current restriction that prohibits falconry in Vermont and West Virginia.

We also are amending the regulatory language in 50 CFR 21.29(a) and (c) to clarify our procedures for approving State regulations for compliance with our falconry standards. This approval is contingent upon the respective State submitting its laws and regulations to us for review and us finding that the laws and regulations meet or exceed our falconry standards.

We are including in this rule the entire list of States that have met the Federal falconry standards, including Vermont and West Virginia. This should eliminate any confusion about which States have approval for falconry and which of those participate in a joint Federal/State permit system.

We also are making minor text revisions in 50 CFR 21.29 (j)(2) to comply with plain language mandates and to be gender neutral.

We are making this rulemaking effective immediately. This is allowed by the Administrative Procedure Act (5 U.S.C. 553(d)(1)) because this final rule relieves a restriction that prohibited the States of Vermont and West Virginia from allowing the practice of falconry.

Why Is This Rulemaking Needed?

The States of Vermont and West Virginia wanted to institute falconry programs so that citizens who wanted to practice the sport of falconry in their State could do so. Accordingly, they promulgated regulations that meet or exceed our Federal requirements protecting migratory birds. We needed to amend 50 CFR 21.29 to add them to the list of States that have Federal approval to practice falconry.

Were There Any Public Comments on the Proposal?

We received one comment. The proposal was published in the **Federal Register** on August 18, 1998 (63 FR 44229) and invited comments from any interested parties. The comment period closed on September 17, 1998. The comment was from the General Counsel, North American Falconers Association. NAFA supported adding Vermont and West Virginia to the list of States that meet our falconry standards. They asked that we provide guidance and expeditious review of the falconry programs being instituted in Delaware and Connecticut so that they could be added to the list of States meeting our standards.

Service Response: Our non-game migratory bird coordinator from the Hadley, Massachusetts, Regional Office has provided Delaware and Connecticut with guidance documents to assist them in developing their falconry standards. We stand ready to provide any additional support these States may need in developing programs that meet our standards.

Is This Rule in Compliance With NEPA?

Yes. In accordance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulations for implementing NEPA (40 CFR parts 1500–1508), we prepared an Environmental Assessment (EA) in July 1988 to support establishment of simpler, less restrictive regulations governing the use of most raptors. You can obtain a copy of this EA by contacting us at the address in the **ADDRESSES** section. Adding Vermont and West Virginia to the list of States whose falconry laws meet or exceed Federal falconry standards, although covered by the general conditions addressed in the 1988 EA, is considered categorically excluded from further NEPA documentation by the Department of the Interior's NEPA procedures. The action is an "* * * amendment to an approved action when such changes have no or minor potential environmental impact" (516 DM 6, Appendix 1.4(1)).

Is This Rule in Compliance With Endangered Species Act Requirements?

Yes. Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531, *et seq.*), requires that, "The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act." It further states that the Secretary must "insure that any action authorized, funded, or carried out * * * is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat * * *." Our review pursuant to section 7 concluded that the addition of Vermont and West Virginia to the list of States approved to practice falconry is not likely to adversely affect any listed species. A copy of this determination is available by contacting

us at the address in the **ADDRESSES** section of this rule.

What About Other Required Determinations?

This rule was not subject to the Office of Management and Budget (OMB) review under Executive Order 12866. The Department of the Interior has determined that it will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. It will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs or prices, and will not adversely affect competition, employment, investment, productivity, or innovation. We estimate that 25 individuals will obtain falconry permits as a result of this rule and many of the expenditures of those permittees will accrue to small businesses. The maximum number of birds allowed by a falconer is three, so the maximum number of birds likely to be possessed is 75. Some birds will be taken from the wild, but others may be purchased. Using one of the more expensive birds, the northern goshawk, as an estimate, the cost to procure a single bird is less than $5,000, which, with an upper limit of 75 birds, translates into $375,000. Expenditures for building facilities would be less than $40,000 for 75 birds and care and feeding less than $75,000. These expenditures, totaling less than $500,000, represent an upper limit of potential economic impact from the addition of Vermont and West Virginia to the list of approved States.

This rule has no potential takings implications for private property as defined in Executive Order 12630. The only effect of this rule on the constituent community will be to allow falconers in the States of Vermont and West Virginia to apply for falconry permits. It is estimated that no more than 25 people would apply for falconry permits in both Vermont and West Virginia combined. This rule does contain information collection requirements that are approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection is covered by an existing OMB approval for licenses/permit applications, number 1018–0022. For further details concerning the information collection approval see 50 CFR part 21.4.

We have determined and certify pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The rule does not have significant Federalism effects pursuant to Executive Order 12612. We also have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988 for civil justice reform, and that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Regarding Government-to-Government relationships with Tribes, this rulemaking will have no effect on federally recognized Tribes. There are no federally recognized Indian tribes in the States of Vermont or West Virginia. Furthermore, the revisions to the existing regulations are of a purely administrative nature affecting no Tribal trust resources.

Author: The primary author of this rulemaking is Cyndi Perry, U.S. Fish and Wildlife Service, Office of Migratory Bird Management, 1849 C Street, NW., MS 634 ARLSQ, Washington, DC 20240.

List of Subjects in 50 CFR Part 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Regulation Promulgation

Accordingly, we amend Part 21, subchapter B of chapter 29, title 50 of the Code of Federal Regulations as follows:

PART 21—MIGRATORY BIRD PERMITS

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

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

2. Amend section 21.29 by revising paragraphs (a), (c), (j)(2) and (k) to read as follows:

§ 21.29 Federal falconry standards.

(a) *Before you can practice falconry in any State.* You cannot take, possess, transport, sell, purchase, barter, or offer to sell, purchase, or barter any raptor for falconry purposes, in any State unless the State allows the practice of falconry, and the State has submitted copies of its laws and regulations governing the practice of falconry to us (Director), and we have determined that they meet or exceed the Federal falconry standards established in this section. If you are a Federal falconry permittee, you can possess and transport for falconry purposes a lawfully possessed raptor through States that do not allow falconry or meet Federal falconry standards so long as the raptors remain in transit in interstate commerce. The States that are in compliance with Federal falconry standards are listed in paragraph (k) of this section.

* * * * *

(c) *What is the process for Federal approval of a State program?* Any State that wishes to allow the practice of falconry must submit to the Director of the Service a copy of the laws and regulations that govern the practice of falconry in the State. If we determine that they meet or exceed the Federal standards, which are established by this section, we will publish a notice in the **Federal Register** adding the State to the list of approved States in paragraph (k) of this section. Any State that was listed in paragraph (k) prior to September 14, 1999, is considered to be in compliance with our standards.

* * * * *

(j) *What other restrictions must a State have?*

* * * * *

(2) If you possessed raptors before January 15, 1976, the date these regulations were enacted, and you had more than the number allowed under your permit, you may retain the extra raptors. However, each of those birds must be identified with markers we supplied, and you cannot replace any birds, nor can you obtain any additional raptors, until the number in your possession is at least one fewer than the total number authorized by the class of permit you hold.

* * * * *

(k) *List of States meeting Federal falconry standards.* We have determined that the following States meet or exceed the minimum Federal standards established in this section for regulating the taking, possession, and transportation of raptors for the purpose of falconry. The States that are participants in a joint Federal/State permit system are designated by an asterisk (*).

*Alabama
*Alaska
Arizona
*Arkansas
*California
*Colorado
*Florida
*Georgia
*Idaho
*Illinois
*Indiana
*Iowa
*Kansas
*Kentucky
*Louisiana
Maine
Maryland

Massachusetts
*Michigan
*Minnesota
*Mississippi
Missouri
*Montana
*Nebraska
*Nevada
*New Hampshire
*New Jersey
*North Dakota
New York
New Mexico
*North Carolina
*Ohio
Oklahoma
*Oregon
Pennsylvania
Rhode Island
*South Carolina
*South Dakota
*Tennessee
Texas
Utah
Vermont
*Virginia
*Washington
West Virginia
*Wisconsin
*Wyoming

Dated: August 6, 1999.

Donald Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–23168 Filed 9–3–99; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 64, No. 172
Tuesday, September 7, 1999

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 98–121–2]

Animal Welfare; Draft Policy on Environment Enhancement for Nonhuman Primates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of extension of comment period.

SUMMARY: We are extending the comment period for a document requesting comments on a draft policy regarding environment enhancement for nonhuman primates. This action will allow interested persons additional time to prepare and submit comments.

DATES: We invite you to comment on Docket No. 98–121–1. We will consider all comments that we receive by October 13, 1999.

ADDRESSES: Please send your comment and three copies to: Docket No. 98–121–1, Regulatory Analysis and Development. PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 98–121–1.

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

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

FOR FURTHER INFORMATION CONTACT: Natalie Roberts, Ph.D., Program Evaluation and Monitoring, PPD, APHIS, 4700 River Road Unit 120, Riverdale, MD 20737–1234; (301)734–8937; or e-mail: Natalie.A.Roberts@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 1999, we published in the **Federal Register** (64 FR 38145–38150, Docket No. 98–121–1) a draft policy statement to clarify what we believe must be considered and included in an environment enhancement plan for nonhuman primates in order for dealers, exhibitors, and research facilities to adequately promote the psychological well-being of the nonhuman primates. We also requested public comment on the draft policy.

Comments on the draft policy were required to be received on or before September 13, 1999. We are extending the comment period on Docket No. 98–121–1 for an additional 30 days. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(d).

Done in Washington, DC, this 1st day of September 1999 .

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–23187 Filed 9–3–9; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 99810212–9212–01]

RIN 0691–AA36

Direct Investment Surveys: BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1999

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document sets forth proposed rules to revise regulations, to present the reporting requirements for the BE–10, Benchmark Survey of U.S. Direct Investment Abroad.

The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The BE–10 survey is a mandatory survey and is conducted once every 5 years by the Bureau of Economic Analysis (BEA), US Department of Commerce, under the International Investment and Trade in Services Survey Act. The proposed benchmark survey will be conducted for 1999. BEA will send the survey to potential respondents in March of the year 2000; responses will be due by May 31, 2000 for respondents required to file fewer than 50 forms and by June 30, 2000 for those required to file 50 or more forms. The last benchmark survey was conducted for 1994. The benchmark survey covers virtually the entire universe of US direct investment abroad in terms of value, and is BEA's most comprehensive survey of such investment in terms of subject matter.

Changes proposed by BEA in the reporting requirements to be implemented in these proposed rules are: Increasing the exemption level for reporting on the BE–10B(SF) short form and the BE–10B BANK form from $3 million to $7 million; directing that minority-owned nonbank foreign affiliates, regardless of size, be reported on the BE–10B(SF) short form; increasing the exemption level for reporting on the BE–10B(LF) long form from $50 million to $100 million; and requiring U.S. reporters with total assets, sales or gross operating revenues, and net income less than or equal to $100 million (positive or negative) to report only selected items. These changes will reduce respondent burden, particularly for small companies. BEA is also proposing several changes in the format and content of the survey that, on balance, also reduce respondent burden.

DATES: Comments on these proposed rules will receive consideration if submitted in writing on or before November 8, 1999.

ADDRESSES: Mail comments to the Office of the Chief, International Investment Division (BE–50), Bureau of Economic Analysis, US Department of Commerce, Washington, DC 20230, or hand deliver comments to room M–100, 1441 L

Street, NW, Washington, DC 20005. Comments will be available for public inspection in room 7005, 1441 L Street, NW, between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, US Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: These proposed rules propose to amend 15 CFR part 806.16 to set forth the reporting requirements for the BE–10, Benchmark Survey of US Direct Investment Abroad—1999. The Bureau of Economic Analysis (BEA), US Department of Commerce, will conduct the survey under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, "the Act." Section 4(b) of the Act requries that with respect to United States direct investment abroad, the President shall conduct a benchmark survey covering year 1982, a benchmark survey covering year 1989, and benchmark surveys covering every fifth year thereafter. In conducting surveys pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible—

(1) Identify the location, nature, and magnitude of, and changes in total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates;

(2) Obtain (A) Information on the balance sheet of parents and affiliates and related financial data, (B) income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and (C) related information regarding trade, including trade in both goods and services, between a parent and each of its affiliates and between each parent or affiliate and any other person;

(3) Collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level;

(4) Obtain information on tax payments by parents and affiliates by country; and

(5) Determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA.

The benchmark surveys are BEA's censuses, intended to cover the universe of US direct investment abroad in terms of value. US direct investment abroad is defined as the ownership or control, directly or indirectly, by one US person of 10 percent or more of the voting securities of an incorporated foreign business enterprise or an equivalent interest in an unincorporated foreign business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, US parent companies and their foreign affiliates. The data are needed to measure the size and economic significance of US direct investment abroad, measure changes in such investment, and assess its impact on the US and foreign economies. The data will provide benchmarks for deriving current universe estimates of direct investment form sample data collected in other BEA surveys in nonbenchmark years. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the US international transactions and national income and product accounts, and for annual estimates of the US direct investment position abroad and of the operations of US parent companies and their foreign affiliates.

As proposed, the survey will consist of an instruction booklet, a claim for not filing the BE–10, and the following report forms:

1. Form BE–10A—Report for US Reporters that are not banks;
2. Form BE–10A BANK—Report for US Reporters that are banks;
3. Form BE–10B(LF) (Long Form)—Report for majority-owned nonbank foreign affiliates of nonbank US parents with assets, sales, or net income greater than $100 million (positive or negative);
4. Form BE–10B(SF) (Short Term)—Report for majority-owned nonbank foreign affiliates with assets, sales, or net income greater than $7 million, but not greater than $100 million (positive or negative), minority-owned nonbank foreign affiliates of nonbank parents with assets, sales, or net income greater than $7 million (positive or negative); and all nonbank affiliates of bank parents; and
5. Form BE–10B BANK—Report for foreign affiliates that are banks.

Although the proposed survey is intended to cover the universe of US direct investment abroad, in order to minimize the reporting burden, foreign affiliates with assets, sales, and net income each equal to or less than $7 million (positive or negative) are exempt from being reported on Form BE–10B(SF) or BE–10B BANK (but must be listed, along with selected identification information and data, on Form BE–10A SUPPLEMENT or BE–10A BANK SUPPLEMENT).

BEA maintains a continuing dialogue with respondents and with data users, including its own internal users through the Bureau's Source Data Improvement and Evaluation Program, to ensure that, as far as possible, the required data serve their intended purposes and are available from existing records, that instructions are clear, and that unreasonable burdens are not imposed. In designing the survey, BEA contacted data users outside the Bureau and survey respondents to obtain their views on the proposed benchmark survey. The proposed draft reflects users' and respondents' comments. In reaching decisions on what questions to include in the survey, BEA considered the Government's need for the data, the burden imposed on respondents, the quality of the likely response (e.g. whether the data are readily available on respondents' books), and BEA's experience in previous benchmark and related annual surveys.

Changes proposed by BEA from the previous benchmark survey include reduction of respondent burden, particularly for small companies, by (1) Increasing the exemption level for reporting on the BE–10B(SF) short form and the BE–10B BANK form from $3 million to $7 million; (2) directing that minority-owned nonbank foreign affiliates, regardless of size, be reported on the BE–10B(SF) short form; (3) increasing the exemption level for reporting on the BE–10B(LF) long form from $50 million to $100 million; and (4) requiring US Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $100 million (positive or negative) to report only selected items. In addition, BEA proposes to adopt the North American Industry Classification System (NAICS) to replace the current industry classification system, which is based on the US Standard Industrial Classification system; consolidate 12 product categories previously used to collect trade in goods on the BEA–10A and the BE–10B(LF) forms into 10 product categories; and reduce the

detail collected on the composition of selected asset and liability positions and on the balance sheet of the US Reporter.

BEA is also proposing improvements in the layout of the survey forms, and the placement and clarity of instructions. Items have been reordered to conform more closely to the order in which they appear in company financial statements. Specific line item instructions that have broad application continue to appear as part of the item on the face of the form, but instructions that provide an extended explanation or address unique situations have been moved to the back of each form, along with relevant instructions that previously appeared only in the separate Instruction Booklet.

A copy of the proposed survey forms may be obtained from: Office of the Chief, Direct Investment Abroad Branch, International Investment Division (BE–69(A)), Bureau of Economic Analysis, US Department of Commerce, Washington, DC 20230; phone (202) 606–5566.

Executive Order 12612

These proposed rules do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under E.O. 12612.

Executive Order 12866

These proposed rules have been determined to be not significant for purposes of E.O. 12866.

Paperwork Reduction Act

These proposed rules contain a collection of information requirement subject to the Paperwork Reduction Act (PRA) and have been submitted to the Office of Management and Budget for review under the PRA.

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any 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 displays a currently valid Office of Management and Budget control Number.

The survey, as proposed, is expected to result in the filing of reports from about 3,500 respondents. The respondent burden for this collection of information is estimated to vary from 14 to 8,500 hours per response, with an average of 130 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus the total respondent burden of the survey is estimated at 458,000 hours (3,500 respondents times 130 hours average burden).

Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Comments should be addressed to: Director, Bureau of Economic Analysis (BE–1), US Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0049, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, has certified to the Chief Counsel for Advocacy, Small Business Administration, under the provisions of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule making, if adopted, will not have a significant economic impact on a substantial number of small entities. A BE–10 report is required of any US company that had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the US company's 1999 fiscal year. Companies that have direct investments abroad tend to be quite large. To minimize the reporting burden on smaller US companies, US Reporters with total assets, sales or gross operating revenues, and net income less than or equal to $100 million (positive or negative) are required to report only selected items on the BE–10A form for US Reporters in addition to forms they may be required to file for their foreign affiliates.

List of Subjects in 15 CFR Part 806

Balance of payments, Economic statistics, U.S. investment abroad, Penalties, Reporting and recordkeeping requirements.

Dated: August 6, 1999.

Rosemary D. Marcuss,

Acting Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA proposes to amend 15 CFR Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.16 is revised to read as follows:

§ 806.16 Rules and regulations for BE–10, Benchmark Survey of U.S. Direct Investment Abroad—1999.

A BE–10, Benchmark Survey of US Direct Investment Abroad will be conducted covering 1999. All legal authorities, provisions, definitions, and requirements contained in 806.1 through 806.13 and 806.14(a) through (d) are applicable to this survey. Specific additional rules and regulations for the BE–10 survey are given in paragraphs (a) through (e) of this section. More detailed instructions are given on the report forms and instructions.

(a) Response required. A response is required from persons subject to the reporting requirements of the BE–10, Benchmark Survey of US Direct Investment Abroad—1999, contained in this section, whether or not they are contacted by BEA. Also, a person, or their agent, who is contacted by BEA about reporting in this survey, either by sending them a report form or by written inquiry, must respond in writing pursuant to 806.4. They may respond by:

(1) Certifying in writing, within 30 days of being contacted by BEA, to the fact that the person had no direct investment within the purview of the reporting requirements of the BE–10 survey;

(2) Completing and returning the "BE–10 Claim for Not Filing" within 30 days of receipt of the BE–10 survey report forms; or

(3) Filing the properly completed BE–10 report (comprising form BE–10A or BE–10A BANK and Forms BE–10B(LF), BE–10B(SF), and/or BE–10B BANK) by May 31, 2000, or June 30, 2000, as required.

(b) Who must report. (1) A BE–10 report is required of any US person that

had a foreign affiliate—that is, that had direct or indirect ownership or control of at least 10 percent of the voting stock of an incorporated foreign business enterprise, or an equivalent interest in an unincorporated foreign business enterprise—at any time during the US person's 1999 fiscal year.

(2) If the US person had no foreign affiliates during its 1999 fiscal year, a "BE–10 Claim for Not Filing" must be filed within 30 days of receipt of the BE–10 survey package; no other forms in the survey are required. If the US person had any foreign affiliates during its 1999 fiscal year, a BE–10 report is required and the US person is a US Reporter in this survey.

(3) Reports are required even though the foreign business enterprise was established, acquired, seized, liquidated, sold, expropriated, or inactivated during the US person's 1999 fiscal year.

(c) Forms for nonbank US Reporters and foreign affiliates—(1) Form BE–10A (Report for the US Reporter). A BE–10A report must be completed by a US Reporter that is not a bank. If the US Reporter is a corporation, Form BE–10A is required to cover the fully consolidated US domestic business enterprise.

(i) If for a nonbank US Reporter any one of the following three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes—was greater than $100 million (positive or negative) at any time during the Reporter's 1999 fiscal year, the US Reporter must file a complete Form BE–10A and, as applicable, a BE–10A SUPPLEMENT listing each, if any, foreign affiliate that is exempt from being reported on Form BE–10B(LF), BE–10B(SF), or BE–10B BANK. It must also file a Form BE–10B(LF), BE–10B(SF), or BE–10B BANK, as appropriate, for each nonexempt foreign affiliate.

(ii) If for a nonbank US Reporter no one of the three items listed in paragraph (c)(1)(i) of this section was greater than $100 million (positive or negative) at any time during the Reporter's 1999 fiscal year, the US Reporter is required to file on Form BE–10A only items 1 through 27 and items 30 through 35 and, as applicable, a BE–10A SUPPLEMENT listing each, if any, foreign affiliate that is exempt from being reported on Form BE–10B(LF), BE–10B(SF), or BE–10B BANK. It must also file a Form BE–10B(LF), BE–10B (SF), or BE–10B BANK, as appropriate, for each nonexempt foreign affiliate.

(2) Form BE–10B(LF) or (SF) (Report for nonbank foreign affiliate). (i) A BE–10B(LF) (Long Form) must be filed for each majority-owned nonbank foreign affiliate of a nonbank US Reporter, whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $100 million (positive or negative) at any time during the affiliate's 1999 fiscal year.

(ii) A BE–10B(SF)(Short Form) must be filed:

(A) For each majority-owned nonbank foreign affiliate of a nonbank US Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than $7 million but for which no one of these items was greater than $100 million (positive or negative), at any time during the affiliate's 1999 fiscal year, and

(B) For each minority-owned nonbank foreign affiliate of a nonbank US Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than $7 million (positive or negative), at any time during the affiliate's 1999 fiscal year, and

(C) For each nonbank foreign affiliate of a US bank Reporter, whether held directly or indirectly, for which any one of the three items listed in paragraph (c)(2)(i) of this section was greater than $7 million (positive or negative), at any time during the affiliate's 1999 fiscal year.

(iii) Notwithstanding paragraphs (c)(2)(i) and (c)(2)(ii) of this section, a Form BE–10B(LF) or (SF) must be filed for a foreign affiliate of the US Reporter that owns another nonexempt foreign affiliate of that US Reporter, even if the foreign affiliate parent is otherwise exempt, *i.e.*, a Form BE–10B(LF), (SF), or BANK must be filed for all affiliates upward in a chain of ownership.

(d) Forms for US Reporters and foreign affiliates that are banks or bank holding companies. (1) For purposes of the BE–10 survey, "banking" covers a business entity engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, foreign branches and agencies of US banks whether or not they accept deposits abroad, savings and loans, savings banks, and bank holding companies, *i.e.*, holding companies for which over 50 percent of their total income is from banks that they hold. If the bank or bank holding company is part of a consolidated business enterprise and the gross operating revenues from nonbanking activities of this consolidated entity are more than 50 percent of its total revenues, then the consolidated entity is deemed not to be a bank even if banking revenues make up the largest single source of all revenues. (Activities of subsidiaries of a bank or bank holding company that may not be banks but that provide support to the bank parent company, such as real estate subsidiaries set up to hold the office buildings occupied by the bank parent company, are considered bank activities.)

(2) Form BE–10A BANK (Report for a US Reporter that is a bank). A BE–10A BANK report must be completed by a US Reporter that is a bank. For purposes filing Form BE–10A BANK, the US Reporter is deemed to be the fully consolidated US domestic business enterprise and all required data on the form shall be for the fully consolidated domestic entity.

(i) If a US bank had any foreign affiliates at any time during its 1999 fiscal year, whether a bank or nonbank and whether held directly or indirectly, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $7 million (positive or negative) at any time during the affiliate's 1999 fiscal year, the US Reporter must file a Form BE–10A BANK and, as applicable, a BE–10A BANK SUPPLEMENT listing each, if any, foreign affiliate, whether bank or nonbank, that is exempt from being reported on Form BE–10B (SF) or BE–10A BANK. It must also file a Form BE–10B(SF) for each nonexempt nonbank foreign affiliate and a Form BE–10B BANK for each nonexempt bank foreign affiliate.

(ii) If the U.S. bank Reporter had no foreign affiliates for which any one of the three items listed in paragraph (d)(2)(i) of this section was greater than $7 million (positive or negative) at any time during the affiliate's 1999 fiscal year, the US Reporter must file a Form BE–10A BANK and a BE–10A BANK SUPPLEMENT, listing all foreign affiliate exempt from being reported on Form BE–10B(SF) or BE–10 BANK.

(3) Form BE–10B BANK (Report for a foreign affiliate that is a bank). (i) A BE–10B BANK report must be filed for each foreign bank affiliate of a bank or nonbank US Reporter, whether directly or indirectly held, for which any one of the three items—total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for foreign income taxes—was greater than $7 million (positive or negative) at any time during the affiliate's 1999 fiscal year.

(ii) Notwithstanding paragraph (d)(3)(i) of this section, a Form BE–10B BANK must be filed for a foreign bank affiliate of the US Reporter that owns another nonexempt foreign affiliate of that US Reporter, even if the foreign affiliate parent is otherwise exempt, i.e., a Form BE–10B(LF), (SF), or BANK must be filed for all affiliates upward in a chain of ownership. However, a Form BE–10B BANK is not required to be filed for a foreign bank affiliate in which the US Reporter holds only an indirect ownership interest of 50 percent or less and that does not own a reportable nonbank foreign affiliate, but the indirectly owned bank affiliate must be listed on the BE–10A BANK SUPPLEMENT.

(e) Due date. A fully completed and certified BE–10 report comprising Form BE–10A or 10A BANK, BE–10A SUPPLEMENT (as required), and Form(s) BE–10B(LF), (SF), or BANK (as required) is due to be filed with BEA not later than May 31, 2000 for those US Reporters filing fewer than 50, and June 30, 2000 for those US Reporters filing 50 or more, Forms BE–10B(LF), (SF), or BANK.

[FR Doc. 99–23148 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–06–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 990

[Docket No. FR–4425–N–06]

Negotiated Rulemaking Committee on Operating Fund Allocation; Notice of Advisory Committee Renewal

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Negotiated Rulemaking Committee Renewal.

SUMMARY: This document announces the renewal of the Negotiated Rulemaking Committee on Operating Fund Allocation. The purpose of the committee is to discuss and negotiate a proposed rule that would change the current method of determining the payment of operating subsidies to public housing agencies (PHAs).

FOR FURTHER INFORMATION CONTACT: Joan DeWitt, Director, Funding and Financial Management Division, Public and Indian Housing, Room 4216, Department of Housing and Urban Development, 431 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–1872 ext. 4035 (this telephone number is not toll-free). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On March 16, 1999 (64 FR 12920), HUD published a notice in the **Federal Register** that announced the establishment of HUD's Negotiated Rulemaking Committee on Operating Fund Allocation (the "Committee"). The purpose of the Committee is to negotiate and develop a proposed rule that would change the current method of determining the payment of operating subsidies to PHAs. The establishment of the Committee is required by the Quality Housing and Work Responsibility Act of 1996 (Public Law 105–276, approved October 21, 1998; 112 Stat. 2461) (the "Public Housing Reform Act").

The Public Housing Reform Act makes extensive changes to HUD's public and assisted housing programs. These changes include the establishment of an Operating Fund for the purpose of making assistance available to PHAs for the operation and management of public housing. The Public Housing Reform Act requires that the assistance to be made available from the new Operating Fund be determined using a formula developed through negotiated rulemaking procedures.

The original Committee charter will expire on September 30, 1999. Additional time is required for completion of the Committee's work. Therefore, the Secretary of HUD has renewed the Committee charter, in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and the implementing General Services Administration regulations at 41 CFR part 101–6. The Committee will terminate upon completion of the proposed rule, unless the Designated Federal Officer and the Committee members agree to extend the duration of the Committee. In no case will the Committee be extended beyond the publication of the final rule.

Dated: August 25, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 99–23267 Filed 9–3–99; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–100905–97]

RIN 1545–AU96

Real Estate Mortgage Investment Conduits; Reporting Requirements and Other Administrative Matters; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the elimination of the regulatory requirement that certain information be set forth on the face of a collateralized debt obligation (CDO) or regular interest in a Real Estate Mortgage Investment.

DATES: The public hearing originally scheduled for Monday, September 13, 1999, at 10 a.m., is canceled.

FOR FURTHER INFORMATION CONTACT: Guy Traynor of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and/or notice of public hearing that appeared in the **Federal Register** on May 19, 1999, (64 FR 27221), announced that a public hearing was scheduled for September 13, 1999, at 10 a.m., room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC 20224. The subject of the public hearing is proposed regulations under section 6049 of the Internal Revenue Code. The public comment period for these proposed regulations expired on July 19, 1999.

The notice of proposed rulemaking and/or notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of August 26, 1999, no one has requested to speak. Therefore, the public hearing scheduled for September 13, 1999, is canceled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–23120 Filed 9–3–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SPATS No. AL–070–FOR]

Alabama Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of an amendment to the Alabama regulatory program (Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Alabama proposes revisions to statutes concerning the repair or compensation for material damage caused by subsidence, resulting from underground coal mining operations, to any occupied residential dwelling and related structures or any noncommercial building. Alabama proposed to revise its program at its own initiative.

This document gives the times and locations that the Alabama program and the amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that will be followed for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.d.t., October 7, 1999. If requested, we will hold a public hearing on the amendment on October 4, 1999. We will accept requests to speak at the hearing until 4:00 p.m., c.d.t. on September 22, 1999.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Arthur W. Abbs, Director, Birmingham Field Office, at the address listed below.

You may review copies of the Alabama program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

Alabama Surface Mining Commission, 1811 Second Avenue, P.O. Box 2390, Jasper, Alabama 35502–2390, Telephone (205) 221–4130.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office. Telephone: (205) 290–7282. Internet: aabbs@balgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

On May 20, 1982, the Secretary of the Interior conditionally approved the Alabama program. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 20, 1982, **Federal Register** (47 FR 22062). You can find later actions on the Alabama program at 30 CFR 901.15 and 901.16.

II. Description of the Proposed Amendment

By letter dated August 17, 1999 (Administrative Record No. AL–0589), Alabama sent us an amendment to its program under SMCRA. Alabama sent the amendment at its own initiative. Alabama proposes to amend the Alabama Surface Mining Control and Reclamation Act. Below is a summary of the changes proposed by Alabama. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES**.

A. Alabama proposes to revise section 9–16–91(e)(1) to read as follows:

(1) Promptly repair or compensate for material damage to any occupied residential dwelling and related structures or any noncommercial building caused by surface subsidence resulting from underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and related structures or noncommercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and related structures or noncommercial building which shall be in the full amount of the diminution in value resulting from subsidence caused damage. Compensation may be accomplished by the purchase, prior to mining, of a non-cancelable premium-prepaid insurance policy.

B. Alabama proposes to revise section 9–16–91(e)(3) to read as follows:

(3) Promptly correct any material damage resulting from subsidence caused to surface lands, to the extent technologically and economically feasible, by restoring the land to a condition capable of maintaining the value and reasonably foreseeable uses that it was capable of supporting before subsidence.

C. Alabama proposes to revise section 9–16–91(e)(4) to read as follows:

(4) The regulatory authority shall issue such notices or orders and take such actions as necessary to compel compliance with these requirements.

D. Alabama proposes to revise section 9–16–91(f) to read as follows:

(f) Notwithstanding any other provision in this chapter to the contrary, the remedies prescribed in this section or any rule promulgated under authority of this chapter pertaining to repair or compensation for subsidence damage and replacement of water shall be the sole and exclusive remedies available to the owner for such damage and its effects. Neither punitive damages nor, except as specifically prescribed in this section or any rule promulgated under authority of this chapter pertaining to repair or compensation for subsidence damage and replacement of water, compensatory damages shall be awarded for subsidence damage caused by longwall mining or other mining process employing a planned subsidence method and conducted in substantial compliance with a permit issued under authority of this chapter. Nothing in this chapter shall prohibit agreements between the surface owner and the mineral owner or lessee that establish the manner and means by which repair or compensation for subsidence damage is to be provided. However, the remedies prescribed for subsidence damage shall not be diminished or waived by contrary provisions in deeds, leases, or documents (other than such subsidence damage agreements) which leave the owner without such prescribed remedies. Provided, however, the provisions of this subsection do not apply to any actions brought for, and in which the trier of the fact finds, intentional, willful, or wanton conduct; provided further, that conduct in substantial compliance with applicable mining permits may not be deemed to be intentional, willful, or wanton.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are requesting comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Alabama program.

Written Comments

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this

prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Your written comments should be specific and pertain only to the issues proposed in this rulemaking. You should explain the reason for any recommended change. In the final rulemaking, we will not necessarily consider or include in the Administrative Record any comments received after the time indicated under **DATES** or at locations other than the Birmingham Field Office.

Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS No. AL–070–FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Birmingham Field Office at (205) 290–7282.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on September 22, 1999. We will arrange the location and time of the hearing with those persons requesting the hearing. If you are disabled and need special accommodations to attend a public hearing, contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The hearing will not be held if no one requests an opportunity to speak at the public hearing.

You should file a written statement at the time you request the hearing. This will allow us to prepare adequate responses and appropriate questions. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the amendment, request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 30, 1999.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 99–23218 Filed 9–3–99; 8:45 am]

BILLING CODE 4310–05–P

Notices

Federal Register
Vol. 64, No. 172
Tuesday, September 7, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–072–1]

User Fees; Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to user fees charged for agricultural quarantine and inspection services we provide in connection with commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States. The purpose of this notice is to remind the public of the user fees for fiscal year 2000 (October 1, 1999, through September 30, 2000).

FOR FURTHER INFORMATION CONTACT: For information concerning program operations, contact Mr. Jim Smith, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236; (301) 734–8295.

For information concerning rate development, contact Ms. Donna Ford, User Fees Section Head, FSSB, BASEU, MRP–BS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232; (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 354.3 (referred to below as the regulations) contain provisions for the collection of user fees for agricultural quarantine and inspection (AQI) services provided by the Animal and Plant Health Inspection Service (APHIS). These services include, among other things, inspecting commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States. (The Customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.)

These user fees are authorized by § 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a). This statute, known as the Farm Bill, was amended by § 504 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) on April 4, 1996.

On July 24, 1997, we published in the **Federal Register** (62 FR 39747–39755, Docket No. 96–038–3) a final rule to amend the regulations by adjusting our user fees for servicing commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States and by setting user fees for these services for fiscal years 1997 through 2002. When we established the user fees for fiscal years 1997 through 2002, we stated that, prior to the beginning of the fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 2000.

We inspect commercial vessels of 100 net tons or more.[1] As specified in § 354.3(b)(1), our user fee for inspecting commercial vessels will be $461.75 during fiscal year 2000 (October 1, 1999, through September 30, 2000).

We inspect commercial trucks[2] entering the Customs territory of the United States. Commercial trucks may pay the APHIS user fee each time they enter the Customs territory of the United States from Mexico[3] or purchase a prepaid APHIS permit for a calendar year. Since commercial trucks are also subject to Customs user fees, our regulations provide that commercial trucks must prepay the APHIS user fee if they are prepaying the Customs user fee. In that case, the required APHIS user fee is 20 times the user fee for each arrival and is valid for an unlimited number of entries during the calendar year (see § 354.3(c)(3)(i) of the regulations). The truck owner or operator, upon payment of the APHIS and the Customs user fees, receives a decal to place on the truck windshield. This is a joint decal, indicating that both the Customs and APHIS user fees for the truck have been paid for that calendar year. As specified in § 354.3(c)(1), our user fee for inspecting commercial trucks will be $4 for individual arrivals and, as specified in § 354.3(c)(3)(i), $80 for a calendar year 2000 decal.

We inspect commercial railroad cars[4] entering the Customs territory of the United States. These user fees may be paid per inspection or prepaid. Prepaid user fees cover 1 calendar year's worth of AQI inspections. As specified in § 354.3(d)(1), the user fee for this service will be $6.75 per loaded commercial railroad car for each arrival or, if user fees are prepaid, $135 (20 times the individual arrival fee) for each loaded railcar during fiscal year 2000 (October 1, 1999, through September 30, 2000).

We inspect international commercial aircraft[5] arriving at ports in the Customs territory of the United States. As specified in § 354.3(e)(1), the user fee will be $60.25 during fiscal year 2000 (October 1, 1999, through September 30, 2000).

We also inspect international airline passengers[6] arriving at ports in the Customs territory of the United States. As specified in § 354.3(f)(1), the international airline passenger user fee will be $2.05 during fiscal year 2000

[1] Those commercial vessels subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(b)(2).

[2] Those commercial trucks subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(c)(2).

[3] Section 354.3(c)(2)(i) of the regulations states that commercial trucks entering the Customs territory of the United States from Canada are exempt from paying an APHIS user fee.

[4] Those commercial railroad cars subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(d)(2).

[5] Those commercial aircraft subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(e)(2).

[6] Those international airline passengers subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(f)(2).

(October 1, 1999, through September 30, 2000).

Done in Washington, DC, this 30th day of August, 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–23188 Filed 9–3–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

National Drought Policy Commission

AGENCY: Farm Service Agency, USDA.

ACTION: Notice of Commission meeting and public hearing and request for comments.

SUMMARY: The National Drought Policy Act of 1998 established the National Drought Policy Commission (Commission). The Farm Service Agency (FSA) was identified to provide support to the Commission. The Commission shall conduct a thorough study and submit a report to the President and Congress on national drought policy. The first meeting of the Commission was held on July 22, 1999, and the first public hearing on July 23, 1999. Minutes of the first meeting and a list of Commission members can be found on the Commission's web site at www.fsa.usda.gov/drought. This notice announces the second meeting and public hearing and seeks comments on issues that the Commission should address and recommendations that the Commission should consider as part of its report. The second public hearing and meeting of the Commission will be held September 22. All meetings are open to the public; however, seating is limited and available on a first-come basis.

DATES: The Commission will conduct a public hearing on September 22, 1999, from 8:00 a.m. to 12:00 noon in the Williamsburg Room, Jamie L. Whitten Building, 12th and Jefferson Drive, SW, Washington, DC.

The Commission will meet on September 22, 1999, from 1:00 p.m. to 5:00 p.m. in the same location. All times noted are Eastern Daylight Time. The Commission will discuss the current drought in the Northeast as it applies to national policy. They will also discuss the status of Commission activities, the operational definition of drought for the Commission, and other committee business.

Anyone wishing to make an oral presentation to the Commission at the public hearing, must contact the Executive Director, Leona Dittus, in writing (by letter, fax or internet) no later than 12 noon, September 21, 1999, in order to be included on the agenda. Presenters will be approved on a first-come, first-served basis. The request should identify the name and affiliation of the individual who will make the presentation and an outline of the issues to be addressed. Thirty-five copies of any written presentation material shall be given to the Executive Director by all presenters no later than the time of the presentation for distribution to the Commission and the interested public. Those wishing to testify, but who are unable to notify the Commission office by September 21, 1999, will be able to sign up as a presenter the day of the hearing (September 22) between 8:00 a.m. and 10:00 p.m. These presenters will testify on a first-come, first-served basis and comments will be limited based on the time available and the number of presenters. Written statements will be accepted at the meeting, or may be mailed or faxed to the Commission office.

ADDRESSES: Comments and statements should be sent to Leona Dittus, Executive Director, National Drought Policy Commission, U.S. Department of Agriculture, 1400 Independence Avenue, SW, Room 6701–S, STOP 0501, Washington, DC 20250–0501.

FOR FURTHER INFORMATION CONTACT: Leona Dittus (202) 720–3168; FAX (202) 720–4293; internet Leona__Dittus@WDC.FSA.USDA.GOV.

SUPPLEMENTARY INFORMATION: The purpose of the Commission is to provide advice and recommendations to the President and Congress on the creation of an integrated, coordinated Federal policy, designed to prepare for and respond to serious drought emergencies. Tasks for the Commission include developing recommendations that will (a) better integrate Federal laws and programs with ongoing State, local, and tribal programs (b) improve public awareness of the need for drought mitigation, prevention, and response and (c) determine whether all Federal drought preparation and response programs should be consolidated under one existing Federal agency, and, if so, identify the agency. The Commission will be chaired by the Secretary of Agriculture or his designee, and a Vice Chair shall be selected from among the members who are not Federal officers or employees. In the absence of the Chair, the Vice Chair will act in his stead. Administrative staff support essential to the execution of the Commission's responsibilities shall be provided by USDA, FSA.

Commission members specifically cited in Public Law 105–199, include the Secretaries of Agriculture, Interior, Army, and Commerce, the Director of the Federal Emergency Management Agency, and the Administrator of the Small Business Administration; two persons nominated by the National Governors' Association, a person nominated by the National Association of Counties, and a person nominated by the Conference of Mayors. Those four members are to be appointed by the President. Six additional Commission members have been appointed by the Secretary of Agriculture, in coordination with the Secretary of the Interior and the Secretary of the Army. The six at-large members represent groups acutely affected by drought emergencies, such as the agricultural production community, the credit community, rural and urban water associations, Native Americans, and fishing and environmental interests.

If special accommodations are required, please contact Leona Dittus, at the address specified above, by COB September 15, 1999.

Signed at Washington, DC, on September 1, 1999.

Parks Shackelford,

Acting Administrator, Farm Service Agency.

[FR Doc. 99–23184 Filed 9–1–99; 2:01 pm]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Western Washington Cascades Provincial Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Western Washington Cascades Provincial Interagency Executive Committee Advisory Committee (Provincial Advisory Committee) will meet on Friday, September 24, 1999, at the Mt. Baker-Snoqualmie National Forest Headquarters, 21905 64th Avenue West, in Mountlake Terrace, WA. The meeting will begin at 9 a.m. and continue until about 3 p.m. Agenda items to be covered include: (1) formal introduction of members and a review and discussion of Advisory-Committee operating procedures and groundrules; (2) brief orientation including Advisory Committee purpose and history and the role of Committee members; and (3) a futuring session including a briefing on the current status and complexity of forest programs and resources and a

discussion leading to the identification of a strategic focus for the Committee.

In addition to the Advisory Committee meeting, a field trip for Advisory Committee members will take place the previous day, Thursday, September 23, 1999. Members will tour portions of the Baker Lake basin on the Mt. Baker Ranger District, commencing at 9 a.m. at the Mt. Baker District Office, 2105 State Route 20, in Sedro Woolley, Washington, and ending back at the same Office about 4:30 p.m. The purpose of the trip is to: (1) Explore the complexity of National Forest natural resource management; (2) emphasize the integration of forest management activities among federal and non-federal entities; (3) introduce the nature of an "Urban Forest" and its ties to Puget Sound growth; and (4) introduce the idea of a more strategic view of resource management and advice to the Forest. All Western Washington Cascades Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Interested citizens are also welcome to join the September 23 field trip; however, they must provide their own transportation.

The Provincial Advisory Committee provides advice regarding ecosystem management for federal lands within the Western Washington Cascades Province, as well as advice and recommendations to promote better integration of forest management activities among federal and non-federal entities. The Advisory Committee is a key element of implementation of the Northwest Forest Plan.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Penny Sundblad, Province Liaison, USDA Forest Service, Mt. Baker-Snoqualmie National Forest, Mt. Baker Ranger District, 2105 State Route 20, Sedro Woolley, Washington 98284 (360–856–5700, Extension 321).

Dated: August 30, 1999.

John Phipps,

Forest Supervisor.

[FR Doc. 99–23150 Filed 9–3–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by November 8, 1999.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Program Development & Regulatory Analysis, Rural Utilities Service, USDA, 1400 Independence Ave., SW., STOP 1522, Room 4034 South Building, Washington, DC 20250–1522. Telephone: (202) 720–0736. FAX: (202) 720–4120.

SUPPLEMENTARY INFORMATION:

Title: Seismic Safety of New Building Construction.

OMB Control Number: 0572–0099.

Type of Request: Reinstatement with change of previously approved information collection.

Abstract: The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 *et seq.*) was enacted to reduce risks to life and property through the National Earthquake Hazards Reduction Program (NEHRP). The Federal Emergency Management Agency (FEMA) is designated as the agency with the primary responsibility to plan and coordinate the NEHRP. This program includes the development and implementation of feasible design and construction methods to make structures earthquake resistant. Executive Order 12699 of January 5, 1990, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that measures to assure seismic safety be imposed on federally assisted new building construction.

Title 7 Part 1792, Subpart C, Seismic Safety of Federally assisted New Building Construction, identifies acceptable seismic standards which must be employed in new building construction funded by loans, grants, or guarantees made by RUS or the Rural Telephone Bank (RTB) or through lien accommodations or subordinations approved by RUS or RTB. This subpart implements and explains the provisions of the loan contract utilized by the RUS for both electric and telecommunications borrowers and by the RTB for its telecommunications borrowers requiring construction certifications affirming compliance with the standards.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.5 hours per response.

Respondents: Small business or organizations.

Estimated Number of Respondents: 1,000.

Estimated Number of Responses per Respondent: 1.2.

Estimated Total Annual Burden on Respondents: 800.

Copies of this information collection can be obtained from Bob Turner, Program Development and Regulatory Analysis, at (202) 720–0696.

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 will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumption used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques on other forms of information technology. Comments may be sent to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1522, Room 4034 South Building, Washington, D.C. 20250–1522.

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

Dated: August 31, 1999.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 99–23186 Filed 9–3–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Tri-State Generation and Transmission Association, Inc. and Plains Electric Generation and Transmission Cooperative, Inc.; Notice of Availability of an Environmental Assessment

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of an environmental assessment.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) is issuing an Environmental Assessment (EA) with respect to the potential environmental impacts related to the

construction and operation of a 230 kV transmission line and associated facilities proposed by Tri-State Generation and Transmission Association, Inc. (Tri-State), of Westminster, Colorado. The project will extend from Walsenburg, Colorado, to an area near Gladstone, New Mexico. RUS may provide financing assistance for the project.

FOR FURTHER INFORMATION CONTACT: Dennis E. Rankin, Environmental Protection Specialist, RUS, Engineering and Environmental Staff, Stop 1571, 1400 Independence Avenue, SW, Washington, DC 20250–1571, telephone: (202) 720–1953 or e-mail: drankin@rus.usda.gov.; Karl Myers, Tri-State, P.O. Box 33695, Denver, Colorado 80233, telephone: (303) 452–6111 or e-mail: kmyers@tristategt.org; or Richard Precek, Plains Electric Generation and Transmission Cooperative, Inc., P.O. Box 6551, Albuquerque, New Mexico 87197, telephone: (505) 889–7207 or e-mail: rwprecek@plainsgt.org.

SUPPLEMENTARY INFORMATION: The project will extend from Tri-State's existing Walsenburg Substation located at Walsenburg, Colorado, to a proposed substation to be located near Gladstone, New Mexico. The proposed project will be located in Huerfano and Las Animas Counties, Colorado, and Colfax and Union Counties, New Mexico. The project will interconnect with an existing transmission line which is presently owned by Plains Electric Generation and Transmission Cooperative, Inc. (Plains). Tri-State and Plains are pursuing a merger. Alternatives to the proposed project include local generation, transmission system alternatives, alternative routes and no action.

Greystone, an environmental consultant, prepared an environmental assessment (EA) which describes the project further and discusses the environmental impacts of the proposed project for RUS. RUS has conducted an independent evaluation of the EA and believes that it accurately assesses the impacts of the proposed project. No adverse impacts are expected with the construction of the project. RUS has accepted the document as its Environmental Assessment and is making it available for public review.

Copies of the EA have been sent to Federal, State and local agencies and the public who have previously requested a copy. The EA also can be reviewed at libraries located in communities within the project area and at offices of electric cooperatives that provide service to the project area.

Questions and comments should be sent to RUS at the address provided. RUS should receive comments on the Environmental Assessment in writing by October 6, 1999, to ensure that the comments are taken into consideration prior to RUS making its environmental determination.

Any final action by RUS related to the proposed project will be subject to, and contingent upon, compliance with all relevant Federal environmental laws and regulations and completion of environmental review procedures as prescribed by the Council on Environmental Quality Regulations and RUS environmental policies and procedures.

Dated: August 31, 1999.

Glendon D. Deal,

Acting Director, Engineering and Environmental Staff.

[FR Doc. 99–23161 Filed 9–3–99; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1051]

Approval for Expanded Manufacturing Authority (Pharmaceutical Products) Within Foreign-Trade Subzone 22F, Abbott Laboratories, Inc., Chicago, Illinois, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Illinois International Port District, grantee of FTZ 22, has requested authority on behalf of Abbott Laboratories, Inc., operator of FTZ Subzone 22F, located in the Chicago, Illinois, area, to expand the scope of manufacturing activity conducted under FTZ procedures at the Abbott plant (FTZ Doc. 58–98, filed 12–17–98); and,

Whereas, notice inviting public comment was given in the **Federal Register** (63 FR 71617, 12/28/98); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 30th day of August, 1999.

Robert S. LaRussa,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–23211 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 42–99]

Foreign-Trade Zone 49—Newark/Elizabeth, New Jersey; Application for Subzone, Clariant Corp., Somerville, New Jersey

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York & New Jersey, grantee of FTZ 49, requesting special-purpose subzone status for the manufacturing and warehousing facilities of Clariant Corporation (Clariant), located in Somerville, New Jersey. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on August 25, 1999.

The Clariant Corporation has two sites with 150 employees in Somerset County, New Jersey. Site 1 (64.06 acres) is located at 70 Meister Avenue in Somerville, New Jersey. Site 2 (2 acres) is located at 55 Veronica Avenue in Somerset, New Jersey. The Clariant facilities are used for the manufacturing, testing, packaging and warehousing of specialized electronic chemicals used in the production of microelectronic devices. Initially, zone savings are expected to come from the manufacture of photoresists, strippers, anti-reflective coatings, and edge bead removers/thinners (HTS 3707 and 3814, duty rate ranges from 6.0% to 6.5%). Components and materials sourced from abroad (representing about 70% of all parts consumed in manufacturing) include: sulfonic esters, resins, dyes, organic surface active agents, and chemical preparations for photographic uses (HTS 2927, 3402, 3707, and 3909, duty rate ranges from 4.0% to 9.5%). The application also indicates that the company may in the future import under FTZ procedures a wide variety of other chemical materials, as well as other products used in the production of electronic chemicals.

FTZ procedures would exempt Clariant from Customs duty payments on the foreign components used in export production. Some 10 percent of the plant's shipments are exported. On its domestic sales, Clariant would be able to choose the duty rates during Customs entry procedures that apply to finished electronic chemicals (6.0–6.5%) for the foreign inputs noted above. In addition, Clariant products shipped to semiconductor manufacturers with subzone status could be subject to the semiconductor duty rate (duty-free). The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is November 8, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period November 22, 1999.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Customs Port of Entry -Perth Amboy, 205 Jefferson St., Room 203, Perth Amboy, NJ 08861.

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW, Washington, DC 20230

Dated: August 27, 1999.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 99–23210 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Extension of Time Limit for Final Results of Five-Year Reviews

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

ACTION: Notice of Extension of Time Limit for Preliminary Results of Five-Year ("Sunset") Reviews.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the final results of 23 expedited sunset reviews initiated on May 3, 1999 (64 FR 23596) covering various antidumping and countervailing duty orders. Based on adequate responses from domestic interested parties and inadequate responses from respondent interested parties, the Department is conducting expedited sunset reviews to determine whether revocation of the antidumping and countervailing duty orders would be likely to lead to continuation or recurrence of dumping or a countervailable. As a result of these extensions, the Department intends to issue its final results not later than November 29, 1999.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–6397, or (202) 482–1560 respectively.

Extension of Final Results

In accordance with section 751(c)(5)(C)(v) of the Tariff Act of 1930, as amended ("the Act"), the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995; *see* section 751(c)(6)(C) of the Act). The Department has determined that the sunset reviews of the following antidumping and countervailing duty orders are extraordinarily complicated:

A–583–008 Small Diameter Carbon Steel Pipe and Tube from Taiwan
A–549–502 Welded Carbon Steel Pipes and Tubes from Thailand
A–533–502 Welded Carbon Steel Pipes and Tubes from India
A–489–501 Welded Carbon Steel Pipes and Tubes from Turkey
A–122–506 Oil Country Tubular Goods from Canada
A–583–505 Oil Country Tubular Goods from Taiwan
A–559–502 Small Diameter Standard & Rectangular Pipe & Tube from Singapore
A–583–803 Light Walled Rectangular Tubing from Taiwan
A–357–802 Light Walled Rectangular Tubing from Argentina
A–351–809 Circular-Welded Non-Alloy Steel Pipe from Brazil
A–580–809 Circular-Welded Non-Alloy Steel Pipe from Korea
A–201–805 Circular-Welded Non-Alloy Steel Pipe from Mexico
A–583–814 Circular-Welded Non-Alloy Steel Pipe from Taiwan
A–307–805 Circular-Welded Non-Alloy Steel Pipe from Venezuela
A–588–707 Granular Polytetrafluoroetheylene Resin from Japan
A–475–703 Granular Polytetraflouroetheylene Resin from Italy
A–351–602 Carbon Steel Butt-Weld Pipe Fittings from Brazil
A–583–605 Carbon Steel Butt-Weld Pipe Fittings from Taiwan
A–588–602 Carbon Steel Butt-Weld Pipe Fittings from Japan
A–570–814 Carbon Steel Butt-Weld Pipe Fittings from China
A–549–807 Carbon Steel Butt-Weld Pipe Fittings from Thailand
A–484–801 Electrolytic Manganese Dioxide from Greece
A–588–806 Electrolytic Manganese Dioxide from Japan

Therefore, the Department is extending the time limit for completion of the final results of these reviews until not later than November 29, 1999, in accordance with section 751(c)(5)(B) of the Act.

Dated: August 31, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23207 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Initiation and Preliminary Results of Changed Circumstances Review and Intent to Revoke Antidumping Order in Part

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

ACTION: Notice of initiation and preliminary results of changed circumstances review, and intent to revoke antidumping order in part.

SUMMARY: In accordance with 19 CFR 351.216(b), Taiho Corporation of America (Taiho America) requested a changed circumstances review of the antidumping order on Certain Corrosion-Resistant Carbon Steel Flat Products from Japan. In response to Taiho's request, the Department of Commerce (the Department) is initiating a changed circumstances review and issuing a notice of intent to revoke in part the antidumping duty order on

certain corrosion-resistant carbon steel flat products from Japan. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Sarah Ellerman or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4106, (202) 482–3020, respectively.

The Applicable Statute and Regulations

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

SUPPLEMENTARY INFORMATION:

Background

On August 27, 1999, Taiho America requested that the Department revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Specifically, Taiho America requested that the Department revoke the order with respect to imports of the following merchandise: (1) Carbon steel flat products measuring 0.97 mm in thickness and 20 mm in width consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead-tin alloy powder that is balance copper, 9%–11% tin, 9%–11% lead, less than 1% zinc, less than 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consists of 45%–55% lead, 38%–50% polytetrafluorethylene (PTFE) and 3%–5% molybdenum disulfide and less than 2% other materials; and (2) carbon steel flat products measuring 1.84 mm in thickness and 43.6 mm or 16.1 mm in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys. Taiho America, a domestic manufacturer of plain sleeve bushings, is an importer of the products in question.

Scope of Antidumping Order

This antidumping duty order on certain corrosion-resistant steel flat products covers flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel-or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead ("terne plate"), or both chromium and chromium oxides ("tin-free steel"), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive of the scope of this review.

Also excluded are certain corrosion-resistant carbon steel flat products meeting the following specifications: (1) widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate.

Initiation and Preliminary Results of Changed Circumstances Review, and Intent To Revoke Order in Part

Pursuant to sections 751(d)(1) and 782(h)(2) of the Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it determines that producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the relief provided by the order, in whole or in part, or if other changed circumstances sufficient to warrant revocation exist. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In accordance with sections 751(d)(1) and 782(h)(2) of the Act, and 19 CFR 351.216 and 351.222(g), based on affirmative statements by domestic producers of the like product, Bethlehem Steel Corporation, Ispat Inland Steel Industries, Inc, LTV Steel Co., Inc., National Steel Corporation,

and U.S. Steel Group, a unit of USX Corporation, of no further interest in continuing the order with respect to corrosion-resistant carbon steel flat products measuring 0.97 mm in thickness and 20 mm in width consisting of carbon steel coil, SAE 1010 or 1012, with a two-layer lining, the first layer consisting of a copper-lead-tin alloy powder that is 76%–80% copper, 9%–11% tin, 9%–11% lead, and under 1% zinc and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45%–55% lead, 38%–50% PTFE, and 3%–5% molybdenum disulfide, we are initiating this changed circumstances review. We are also initiating a changed circumstances review, based on affirmative statements, by the domestic producers listed above, of no further interest in continuing the order with respect to corrosion-resistant carbon steel flat products measuring 1.84 mm in thickness and 43.6 mm or 16.1 mm in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys. Furthermore, we determine that expedited action is warranted, and we preliminarily determine that continued application of the order with respect to corrosion-resistant carbon steel flat products falling within the descriptions above is no longer of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan with respect to imports of the above-specified products.

If the final revocation, in part, occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of corrosion-resistant carbon steel flat products, with the dimensions and chemical composition of coatings indicated above, not subject to final results of administrative review as of the date of publication in the **Federal Register** of the final results of this changed circumstances review in accordance with 19 CFR 351.222. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties on corrosion-resistant carbon steel flat products, with the dimensions and coatings indicated above, will continue unless and until we publish a final determination to revoke in part.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties to the proceedings may request a hearing within 14 days of publication. Any hearing, if requested, will be held no later than 2 days after the deadline for the submission of rebuttal briefs, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 14 days after the date of publication of this notice. Rebuttal briefs, limited to the issues raised in the case briefs, may be filed not later than 5 days after the deadline for submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.222.

Dated: August 30, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–23209 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–803]

Certain Cut-to-Length Carbon Steel Plate From Romania: Preliminary Results of Antidumping Duty Administrative Review

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

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

SUMMARY: In response to a request from one respondent and the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length carbon steel plate from Romania. This review covers one manufacturer/exporter of the subject merchandise. The period of review (POR) is August 1, 1997 through July 31, 1998.

We preliminarily determine that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between export price (EP) and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–2924 (Baker), (202) 482–5222 (James).

SUPPLEMENTARY INFORMATION:

Applicable Statute

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

Background

The Department published an antidumping duty order on certain cut-to-length carbon steel plate from Romania on August 19, 1993 (58 FR 44167). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order for the 1997/98 review period on August 11, 1998 (63 FR 42821). On August 31, 1998, respondents Windmill International

PTE Ltd. of Singapore, Windmill International Romania Branch, and Windmill International Ltd. (USA), (collectively "Windmill") requested that the Department conduct an administrative review. On August 31, 1998, we also received a request for an administrative review from Bethlehem Steel Corporation and U.S. Steel Group, a Unit of USX Corporation (petitioners). We published a notice of initiation of the review on September 29, 1998 (63 FR 51893).

Under the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 26, 1999, the Department extended the time limit for the preliminary results in this case. *See Cut-to-Length Carbon Steel Plate from Romania; Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review,* 64 FR 14689.

The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered in this review include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coil and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been "worked after rolling")—for example, products which have been bevelled or rounded at the edges. Excluded from this review is grade X–70 plate.

These HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

The POR is August 1, 1997 through July 31, 1998. This review covers sales of certain cut-to-length carbon steel plate by Windmill International PTE Ltd. of Singapore (Windmill Singapore.) Windmill's supplier during the POR was the unaffiliated producer C.S. Sidex S.A (Sidex).

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the Department's *Verification of the Information Submitted by Windmill International PTE Ltd., Windmill International Romania Branch, and Windmill USA in the 1997–98 Administrative Review of the Antidumping Duty Order on Cut-to Length Carbon Steel Plate from Romania Report (Verification Report)* dated August 31, 1999, on file in room B–099 of the Department of Commerce Building.

Separate Rates Determination

Windmill International Romania Branch (Windmill Romania) is a liaison office wholly-owned by Windmill Singapore. It is registered by the Romanian government as a branch office of Windmill Singapore, not authorized to trade for its own account, but only to support Windmill Singapore's foreign trade activities. It does not keep its own financial records, and has no financial statements or chart of accounts. All of its costs are included in Windmill Singapore's accounting records. Furthermore, it makes its sales through Windmill Singapore. Moreover, there is no Romanian ownership of Windmill Romania. Therefore, we determine that no separate rates analysis is required for this third-country reseller because we consider the Singapore-based parent to be the respondent exporter in the proceeding and because it is beyond the jurisdiction of the Romanian government. *See, e.g., Final Results of Antidumping Duty Administrative Review: Porcelain on Steel Cookware from the People's Republic of China; 63 FR 27262, 27263* (May 18, 1998) and *Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China;* 60 FR 22359, 22361 (May 5, 1995) and *Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products from the People's Republic of China;* 62 FR 1708, 1709 (January 13, 1997).

Export Price

We calculated the price of United States sales based on EP, in accordance with section 772(a) of the Act. We based EP on the price from Windmill to its unaffiliated U.S. customer, because Sidex sold the merchandise to Windmill without knowing that the ultimate destination of the merchandise was the United States.

We calculated EP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, international freight, marine insurance, shipment inspection fee, other U.S. transportation expenses, and U.S. Customs Service duty. The foregoing expenses were all reported by Windmill in its questionnaire response. We also made an adjustment for four additional expenses not reported by Windmill that we found at the verification. These four expenses were: (1) A bank fee and "miscellaneous expense" associated with the foreign inland freight; (2) payment of a bank fee associated with the shipment inspection; (3) an expense recorded in a miscellaneous account; and (4) the purchase of a Customs bond for exporting the merchandise to the United States. For a description of these four expenses, see the *Verification Report,* at pages 22, 26, 28, and 29, respectively.

Windmill reported the invoice date (as kept in the ordinary course of business) as the date of sale. However, that invoice date was after the date of shipment and the contract date, and we found no evidence suggesting that the terms of sale were altered between the contract date and the invoice date. Therefore, we used the contract date as the date of sale because the terms of sale did not change after that date.

Normal Value

For merchandise exported from an NME country, section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors of production method if (1) the merchandise is exported from an NME and (2) available information does not permit the calculation of NV using

home market or third-country prices under section 773(a) of the Act. The Department has treated Romania as an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Moreover, parties to this proceeding have not argued that the Romanian steel industry is a market-oriented industry. Consequently, we have no basis to determine that the available information would permit the calculation of NV using Romanian prices or costs. Therefore, we calculated NV based on factors of production in accordance with sections 773(c)(3) and (4) of the Act and section 351.408(c) of our regulations.

Under the factors of production method, we are required to value the NME producer's inputs in a comparable market economy country that is a significant producer of comparable merchandise. We determined that Indonesia is at a level of economic development comparable to that of Romania. We also found that Indonesia is a significant producer of cut-to-length carbon steel plate. Therefore, for this review, we have used Indonesian prices to value the factors of production except where the factor was purchased from a market economy supplier and paid for in a market economy currency. For a further discussion of the Department's selection of a surrogate country, see the memorandum from Jeff May to Richard O. Weible: "Cut-to-Length Carbon Steel Plate ("CLCSP") from Romania: Nonmarket Economy Status and Surrogate Country Selection," dated March 1, 1999 and the memorandum from Jeff May to Richard O. Weible: "Your Request for Additional Surrogate Countries in the Administrative Review of Cut-to-Length Carbon Steel Plate ("CLCSP") from Romania" dated April 27, 1999.

We selected, where possible, publicly available values from Indonesia which were: (1) average non-export values; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product specific; and (4) tax-exclusive. We valued the factors of production as follows:

• *Raw Materials.* We valued low volatile coking coal, medium volatile coking coal, high volatile coking coal, lime, limestone, iron ore fines, iron ore lumps, iron ore pellets, iron ore concentrate, dolomite, and coke fines using U.N. Commodity Trade Statistics. We did not use the barter transactions provided by Windmill to value medium volatile coking coal, high volatile coking coal, iron ore fines, and iron ore lumps because Windmill could not specifically quantify the value of the items that it bartered for those production inputs. (See *Verification Report* at pages 18–20.)

• *Labor.* Section 351.408(c)(3) of our regulations requires the use of a regression-based wage rate. We have used the regression-based wage rate listed for Romania on Import Administration's internet website at www.ita.doc.gov/import_admin/records/wages. The source for the wage rate data used in the regression analysis is "Expected Wages of Selected NME Countries—1997 Income Data," *1998 Year Book of Income Data*, International Labor Office, (Geneva: 1998) Chapter 5B: Wages in Manufacturing.

• *Energy.* We valued electricity and natural gas using the International Energy Agency's *Asia Electric Study* (1997).

• *Selling, General and Administrative Expenses (SG&A), Overhead, and Profit.* We calculated SG&A, overhead, and profit based on information obtained from the 1997 annual report of PT Krakatau Steel, the largest integrated steel producer in Indonesia. From this statement we were able to calculate factory overhead as a percentage of the total cost of manufacturing, SG&A as a percentage of the total cost of manufacturing, and the profit rate as a percentage of the cost of manufacturing plus SG&A.

For a complete description of the factor values used, see the preliminary results analysis memorandum dated August 31, 1999, a public version of which is available in the public file.

We also made an offset, where appropriate, for byproducts sold. However, we denied Windmill's claimed offset adjustments for sinterized dolomite, recovered lime, lime powder, carbon dioxide, raw water, and industrial water because we found at the verification that these products were not byproducts of the production process of subject merchandise, but were products held in inventory for use in the production process. Thus, the sales of such products constituted sales of excess inventory, and not sales of byproducts.

Currency Conversion

We made currency conversions in accordance with Section 773A(a) of the Act. For currency conversions involving the Indonesian rupiah, we used exchange rates published in the International Monetary Fund in *International Financial Statistics*. For all other conversions, we used daily exchange rates published by the Federal Reserve.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 20.62 percent exists for Windmill for the period August 1, 1997 through July 31, 1998.

Within five days of the date of publication of this notice, in accordance with 19 CFR 351.224, the Department will disclose its calculations. Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit written comments (case briefs) no later than 30 days after the date of publication. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument, not to exceed five pages in length. The Department will publish a notice of the final results of the administrative review, which will include the results of its analysis of issues raised by the parties, within 120 days of publication of these preliminary results.

Assessment and Cash Deposit

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the U.S. Customs Service. The final results of this review shall be the basis for the assessment of antidumping duties on entries covered by this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.5 percent) (see 19 CFR 351.106(c)(2)). For assessment purposes, if applicable, we intend to calculate an importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales and dividing by the total quantity sold.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise

entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Windmill will be the rate established in the final results of this administrative review; (2) for all other Romanian exporters, the cash deposit rate will be the Romania-wide rate made effective by the final determination in the less-than-fair-value investigation (*see Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from Romania*, 58 FR 37209 (July 9, 1993)); (3) for non-Romanian exporters of subject merchandise from Romania, the cash deposit rate will be the rate applicable to the Romanian supplier of that exporter.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dataed: August 31, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23215 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–809]

Certain Cut-to-Length Carbon Steel Plate From Mexico: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from a respondent and the petitioners, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut-to-length (CTL) carbon steel plate from Mexico. This review covers one manufacturer/exporter of the subject merchandise. The period of review (POR) is August 1, 1997 through July 31, 1998. We preliminarily determine that sales have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of subject merchandise from the manufacturer/exporter reviewed.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam, Michael Heaney, or Robert James, Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3019 (Killiam), (202) 482–4475 (Heaney), (202) 482–5222 (James).

SUPPLEMENTARY INFORMATION:

Applicable Statute

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

Background

The Department published an antidumping duty order on certain CTL carbon steel plate from Mexico on August 19, 1993 (58 FR 44165). The Department published a notice of opportunity to request an administrative review of the antidumping duty order for the 1997–1998 review period on August 11, 1998 (63 FR 42821). On August 31, 1998, respondent Altos Hornos de Mexico (AHMSA) requested that the Department conduct an administrative review of the antidumping duty order on certain CTL carbon steel plate from Mexico. On August 31, 1998, the petitioners (Bethlehem Steel Corporation, Geneva Steel, Gulf Lakes Steel, Inc., of Alabama, Inland Steel Industries Inc., Lukens Steel Company, Sharon Steel Corporation, and U.S. Steel Group (a unit of USX Corporation)) requested a review of AHMSA. We published a notice of initiation of the review on September 29, 1998 (63 FR 51893).

Under the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 17, 1999, the Department extended the time limit for the preliminary results in this case. *See Certain Cut-to-Length (CTL) Carbon Steel Plate from Mexico; Antidumping Duty Administrative Review; Extension of Time Limits*, 64 FR 14690 (March 26, 1999).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The products covered in this review include hot-rolled carbon steel universal mill plates (i.e., flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coil and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule (HTS) under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this review are flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been "worked after rolling"); for example, products which have been beveled or rounded at the edges. Excluded from this review is grade X–70 plate.

These HTS item numbers are provided for convenience and U.S. Customs purposes. The written descriptions remain dispositive.

The POR is August 1, 1997, through July 31, 1998. This review covers sales of certain cut-to-length carbon steel plate by AHMSA.

Verification

The Department will consider the results of its verification of AHMSA's cost of production (COP) and constructed value (CV) submission prior to issuing the final results of review.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondent covered by the description in the "Scope of the Review" section of this notice (*supra*), and sold in the home market during the period of review (POR), to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In making product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Normal Value Comparisons

To determine whether AHMSA made sales of subject merchandise in the United States at less than normal value, we compared export price (EP) to normal value (NV), as described below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Export Price

The Department treated all of AHMSA's sales as EP sales, because the merchandise was sold directly to unaffiliated U.S. purchasers prior to the date of importation and constructed export price (CEP) methodology was not otherwise indicated.

We based EP on the price to unaffiliated purchasers in the United States. We made deductions for movement expenses, brokerage charges, bank charges, and inspection fees.

Normal Value

In order to determine whether there were sufficient sales of subject merchandise in the home market to serve as a viable basis for calculating NV, we compared AHMSA's volume of home market sales of the foreign like product to its volume of sales of subject merchandise in the United States, in accordance with section 773(a)(1)(C) of the Act. AHMSA's aggregate volume of HM sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise. Therefore, we based NV on HM sales.

Cost Investigation

In the prior review, we initiated and conducted a sales-below-cost investigation of AHMSA. Although AHMSA submitted COP data in that review, we ultimately determined that AHMSA failed to act to the best of its ability and we therefore based AHMSA's margin on total adverse facts available. *See Certain Cut-to-Length Carbon Steel Plate From Mexico: Final Results of Antidumping Duty Administrative Review*, 64 FR 76 (January 4, 1999). The adverse inference made in the prior review provides the Department with a basis to infer that AHMSA's comparison market sales would have failed the cost test such that we would have disregarded them in our determination of NV in that review. Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, we also have reasonable grounds to believe or suspect that sales by AHMSA of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP. *See* January 19, 1999 recommendation memorandum from Richard Weible to Joseph Spetrini, *Automatic Self-Initiation of COP Investigation in 1997–1998 Administrative Review of Cut-to-Length (CTL) Carbon Steel Plate from Mexico.*

We compared sales of the foreign like product in the home market with the model-specific COP for the POR. In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative expenses and all costs and expenses incidental to placing the foreign like product in condition packed and ready for shipment. In our COP analysis we used home market sales and COP information provided by the respondent in its questionnaire responses, revised as follows:

Pursuant to sections 773(f)(2) and (3) of the Act and section 351.407(b) of the Department's regulations, we adjusted the reported iron ore, limestone and scrap costs, to reflect market prices rather than the prices AHMSA paid to affiliates for these major inputs. We revised the general and administrative expense ratio to include income and expense items which AHMSA omitted. We recalculated net interest expenses to exclude monetary corrections and foreign exchange gains. These three adjustments to cost and expense ratios are addressed in *Memorandum to: Neal Halper, Acting Director, Office of Accounting, from Peter Scholl, Senior Accountant, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination*, August 31, 1999.

After calculating COP, we tested whether home market sales of subject merchandise were made at prices below COP and, if so, whether the below-cost sales were made within an extended period of time in substantial quantities and at prices which did not permit recovery of all costs within a reasonable period of time. We then compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts and selling expenses.

The results of our cost test for AHMSA indicated that for certain home market models less than twenty percent of the sales of the model were at prices below COP. Pursuant to section 773(b)(2)(C) of the Act, we therefore determined that the below-cost sales of these models were not made in substantial quantities and we retained all sales of these models in our analysis and used them as the basis for determining NV. Our cost test for AHMSA also indicated that for certain other home market models twenty percent or more of the home market sales were at prices below COP. In accordance with section 773(b)(2)(B) and (C) of the Act, we disregarded the below-cost sales of these models from our analysis because we determined that they were made over an extended period of time in substantial quantities. In addition, because each individual price was compared against the POR-average COP, any sales that were below cost were also not at prices which permitted cost recovery within a reasonable period of time, as defined in section 773(b)(2)(D).

To calculate NV we deducted billing adjustments, movement expenses, cutting fees, early payment discounts, foreign exchange adjustments, freight cost calculation variance adjustments, and inspection fees. We made an addition for interest revenue. In accordance with section 773(a)(6) of the Act, we adjusted NV, where appropriate, by deducting home market packing expenses and adding U.S. packing expenses. We also adjusted NV for differences in credit expenses and differences in physical characteristics between the U.S. and home market merchandise.

Level of Trade

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The NV LOT is that of the starting price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative expenses and profit. For EP, the U.S. LOT is also the level of the starting price sale, which is usually from the exporter to the importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the differences in the levels between NV and CEP affects price comparability, we adjust NV under section 773(A)(7)(B) of the Act (the CEP offset provision). (*See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731 (November 19, 1997).)

In implementing these principles in this review, we asked AHMSA to identify the specific differences and similarities in selling functions and/or support services between all phases of marketing in the home market and the United States. AHMSA identified three channels of distribution in the home market: (1) Direct sales to end-users or distributors, (2) sales requiring cutting services prior to delivery, and (3) consignment sales. AHMSA performs similar selling functions for all three channels. Because the selling functions performed for each customer class are sufficiently similar, we determined that there exists one LOT for AHMSA's home market sales.

For the U.S. market AHMSA reported one LOT: EP sales made directly to its U.S. customers. When we compared EP sales to home market sales, we determined that sales in both markets were made at the same LOT. For both EP and home market transactions AHMSA sold directly to the customer and provided similar levels of order processing, delivery arrangement, and customer liaison. Based upon the foregoing, we determined that AHMSA sold at the same LOT in the U.S. market as it did in the home market, and consequently no LOT adjustment is warranted.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average margin exists for AHMSA for the period September 1, 1997, through August 31, 1998:

Manufacturer/exporter	Margin (percent)
AHMSA	1.77

The Department will issue disclosure documents within five days of the date of publication of this notice. Interested parties may also request a hearing within 30 days of publication. If requested, a hearing will be held as early as convenient for the parties but normally not later than 37 days after the date of publication or the first work day thereafter. Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 5 days after the filing of case briefs. The Department will issue a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such briefs or at a hearing, within 120 days from the publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties. We will instruct the Customs Service to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis* (i.e., at or above 0.5 percent) (see 19 CFR 351.106(c)(2)). For assessment purposes, if applicable, we intend to calculate an importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales and dividing this amount by the total quantity sold.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain CTL carbon steel plate from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original investigation of sales at less than fair value (LTFV) or a previous review, the cash deposit will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 49.25 percent, the "all others" rate established in the LTFV investigation.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.401(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–23216 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–047]

Elemental Sulphur From Canada; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review of Elemental Sulphur from Canada.

SUMMARY: This administrative review covers Husky Oil, Ltd. ("Husky") and Petrosul International ("Petrosul"). The period of review ("POR") is December 1, 1997, through November 30, 1998.

For the reasons provided in the "Facts Available" section of this notice, we have preliminarily determined Husky's antidumping rate based on total adverse facts available, and have applied the highest rate calculated for Husky in prior reviews. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on this margin.

On March 10, 1999, Petrosul informed the Department of Commerce ("the Department") that it did not have any shipments of subject merchandise to the United States during the POR. We have confirmed this with information from the U.S. Customs Service. Therefore, in accordance with section 351.213(d)(3) of the Department's regulations and consistent with the Department's practice, we are rescinding our review for Petrosul. For further information, see the "Partial Rescission of Review" section of this notice, below.

Interested parties are invited to comment on these preliminary results. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0182 or (202) 482–3818, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Rounds Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (1998).

Background

On December 8, 1998, the Department published in the **Federal Register** a notice of "Opportunity to Request Administrative Review" of the antidumping duty order on elemental sulphur from Canada (63 FR 67646). In accordance with 19 CFR 351.213(b)(1), on December 31, 1998, the petitioner, Freeport-McMoRan Sulphur, Inc. ("Freeport"), requested an administrative review of the antidumping order covering the period December 1, 1997, through November 30, 1998, for Husky and Petrosul. On January 25, 1999, the Department published in the **Federal Register** a notice of initiation of administrative review of this order (64 FR 3682). On February 5, 1999, Husky requested that the Department rescind the review and revoke, in whole or in part, the above antidumping order based on changed circumstances. On March 22, 1999, the Department denied Husky's request for a changed circumstances review. *See Decision Memorandum: Request of Husky Oil, Ltd. to Initiate A Changed Circumstances Review of the Antidumping Duty Order on Elemental Sulphur from Canada,* March 22, 1999. On April 19, 1999, Husky submitted a letter to the Department stating that it would not further respond to the Department's questionnaire (a partial response to the Department's questionnaire had been submitted on March 16, 1999), because "it (could not) justify the time and considerable costs necessitated by full participation in this review."

Scope of the Review

Imports covered by this review are shipments of elemental sulphur from Canada. This merchandise is classifiable under Harmonized Tariff Schedule ("HTS") subheadings 2503.10.00, 2503.90.00, and 2802.00.00. Although the HTS subheadings are provided for convenience and for U.S. Customs purposes, the written description of the scope of this finding remains dispositive.

Partial Rescission of Review

As noted above, on March 10, 1999, Petrosul informed the Department that it had no shipments of subject merchandise to the United States during the POR. We have confirmed this with information received from the U.S. Customs Service. Therefore, in accordance with 19 CFR 351.213(d)(3) and consistent with the Department's practice, we are rescinding our review with respect to Petrosul (*see e.g., Certain Welded Carbon Steel Pipe and Tube from Turkey; Final Results and Partial Rescission of Antidumping Administrative Review,* 63 FR 35190, 35191 (June 29, 1998)).

Facts Available

In accordance with section 776(a)(2)(A) of the Act, we preliminarily determine that the use of facts available is appropriate as the basis for Husky's dumping margin. Section 776(a)(2) of the Act provides that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782 (c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. In this case, section 776(a)(2)(A) of the Act applies because Husky failed to respond to sections B, C, and D of the Department's February 16, 1999 questionnaire.

Because Husky failed to respond to significant sections of the Department's questionnaire (*i.e.,* including submissions relating to home market sales, U.S. sales, and cost of production information), and indicated that it would not continue to participate fully in this administrative review, we preliminarily determine that, in accordance with sections 776(a) and 782(e) of the Act, the use of total facts available is appropriate. *See, e.g.,* Certain Grain-Oriented Electrical Steel from Italy: Final Results of Antidumping Duty Administrative Review, 62 FR 2655 (January 17, 1997).

Section 776(b) of the Act provides that adverse inferences may be used with respect to a party that has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* Statement of Administrative Action ("SAA") accompanying the URAA, H.R. Rep. No. 103–316, at 870. Husky's failure to participate in this review demonstrates that it has failed to act to the best of its ability and, therefore, an adverse inference is warranted. *See, e.g., Extruded Rubber Thread from Malaysia; Final Results of Antidumping Duty*

Administrative Review, 63 FR 12752 (March 16, 1998).

Section 776(b) of the Act authorizes the Department to use as adverse facts available secondary information, that is, information derived from the petition, the final determination, a previous administrative review, or any other information placed on the record. The SAA further provides that "{i}n employing adverse inferences, one factor the {Department} will consider is the extent to which a party may benefit from its own lack of cooperation." SAA at 870. It is the Department's normal practice, in situations involving non-cooperating respondents such as Husky, to select as adverse facts available the highest margin from the current or any prior segment of the same proceeding. Therefore, as total adverse facts available, we have applied the rate of 40.38 percent, which was Husky's calculated final margin in the 1992/93 administrative review. *See Final Elemental Sulphur from Canada; Final Results of Antidumping Duty Administrative Reviews* 62 FR 37970, 37990 (July 15, 1997). The Department previously applied this rate as a total adverse facts available rate for Mobil Oil Canada, Ltd. in the 1994/95 administrative review. *See Elemental Sulphur from Canada: Final Results of Antidumping Duty Administrative Review,* 62 FR 37958, 37969 (July 15, 1997).

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information by reviewing independent sources reasonably at its disposal. The SAA provides that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value, that is, that it is both reliable and relevant. *See* SAA at 870. The 40.38 percent rate we selected meets these corroboration criteria.

Regarding the reliability of the selected rate, because there are no independent sources for calculated dumping margins, unlike other types of information, such as input costs or selling expenses, the only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of that earlier calculated margin. *See, e.g., Elemental Sulphur from Canada: Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 971 (January 7, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.: Final Results of Administrative Review,* 62 FR 2081, 2088 (January 15, 1997); and *Final Results of Antidumping Duty Administrative Review: Brass Sheet and Strip from Germany,* 64 FR 43342, 43343 (August 10, 1999). Thus, because we have selected Husky's own calculated margin from a prior administrative review, we do not need to question its reliability.

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin for use as adverse facts available because the margin was based on another company's uncharacteristic business expense, resulting in an unusually high margin). In this review, the rate selected stems from Husky itself, and we are not aware of any circumstances that would render this rate inappropriate.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margin exists for the period December 1, 1997, through November 30, 1998:

Manufacturer/Exporter	Margin (percent)
Husky Oil, Ltd	40.38

Any interested party may request a hearing within 30 days of publication of this notice in the **Federal Register**. Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice in the **Federal Register**; rebuttal briefs may be submitted not later than five days thereafter. Any hearing, if requested, will be held 2 days after the scheduled date for submission of rebuttal briefs. Issues raised in the hearing will be limited to those raised in the case briefs. The Department will publish the final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Assessment Rate

In the event these preliminary results are made final, we intend to assess antidumping duties on Husky's entries at the same rate as the dumping margin (*i.e.,* 40.38 percent) since the margin is not a current calculated rate for the respondent, but a rate based upon total facts available pursuant to section 776(a) of the Act.

Cash Deposit

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for Husky will be the rate established in the final results of this administrative review (no deposit will be required for a zero or de minimis margin, *i.e.,* a margin lower than 0.5 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a previous segment of this proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers will be the "all others" rate as indicated in the final results of the 1993/94 administrative review of these orders (*see Elemental Sulphur from Canada; Final Results of Antidumping Duty Administrative Reviews* 62 FR 37970, 37990 (July 15, 1997)). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 1999.
Richard W. Moreland,
Acting Assistant Secretary for Import Administration.
[FR Doc. 99–23214 Filed 9–3–99; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–840]

Manganese Metal From the People's Republic of China; Notice of Extension of Time Limit for Administrative Review

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

ACTION: Notice of Extension of Time Limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the third review of the antidumping duty order on manganese metal from the People's Republic of China. The period of review is February 1, 1998 through January 31, 1999. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Greg Campbell or Craig Matney, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–2239 or 482–1778, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act") (*i.e.*, November 1, 1998), the Department of Commerce ("the Department") is extending the time limit for completion of the preliminary results to not later than December 2, 1999. *See* August 26, 1999, Memorandum from Deputy Assistant Secretary for AD/CVD Enforcement Richard W. Moreland to Assistant Secretary for Import Administration Robert S. LaRussa on file in the public file of the Central Records Unit, B–099 of the Department.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 351.213(h)(2).

Dated: August 31, 1999.
Richard W. Moreland,
Deputy Assistant Secretary for AD/CVD Enforcement.
[FR Doc. 99–23213 Filed 9–3–99; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–835]

Oil Country Tubular Goods From Japan: Preliminary Results and Recission in Part of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results and recission in part of the antidumping duty administrative review: Oil Country Tubular Goods From Japan.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on Oil Country Tubular Goods From Japan (OCTG). This review covers the period August 1, 1997 through July 31, 1998.

We have preliminarily determined that sales have not been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to liquidate appropriate entries without regard to antidumping duties. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment a statement of the issue and a brief summary of the comment.

EFFECTIVE DATE: September 7, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Gilgunn or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0648 and (202) 482–3020, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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

Background

On June 28, 1995, the Department published in the **Federal Register** (60 FR 33560) the antidumping duty order on OCTG from Japan. On August 31, 1998, U.S. Steel Group, a unit of USX Corporation (the petitioner) requested that the Department conduct a review of Sumitomo Metal Industries, Ltd. (SMI). On August 31, 1998, Okura and Company (Okura) requested that the Department conduct a review of its exports of OCTG. The Department initiated this antidumping administrative review for SMI on September 23, 1998 (63 FR 51893, September 29, 1998) and for Okura on October 26, 1998 (63 FR 58009, October 29, 1998).

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. On March 10, 1999, the Department published a notice of extension of the time limit for the preliminary results of review to August 15, 1999. *See Oil Country Tubular Goods From Japan: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review,* 64 FR 11837. On July 27, 1999, the Department published a second notice of extension of the time limit for the preliminary results of review to August 31, 1999. *See Oil Country Tubular Goods From Japan: Notice of Extension of Preliminary Results of Antidumping Duty Administrative Review,* 64 FR 40554. The Department is conducting this review in accordance with section 751(a) of the Act.

Scope of Review

The products covered by this order are oil country tubular goods (OCTG), hollow steel products of circular cross-section, including oil well casing, tubing, and drill pipe, of iron (other than cast iron) or steel (both carbon and alloy), whether seamless or welded, whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished (including green tubes and limited service OCTG products). This scope does not cover casing, tubing, or drill pipe containing 10.5 percent or more of chromium. The products subject to this order are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7304.21.30.00, 7304.21.60.30, 7304.21.60.45,

7304.21.60.60, 7304.29.10.10, 7304.29.10.20, 7304.29.10.30, 7304.29.10.40, 7304.29.10.50, 7304.29.10.60, 7304.29.10.80, 7304.29.20.10, 7304.29.20.20, 7304.29.20.30, 7304.29.20.40, 7304.29.20.50, 7304.29.20.60, 7304.29.20.80, 7304.29.30.10, 7304.29.30.20, 7304.29.30.30, 7304.29.30.40, 7304.29.30.50, 7304.29.30.60, 7304.29.30.80, 7304.29.40.10, 7304.29.40.20, 7304.29.40.30, 7304.29.40.40, 7304.29.40.50, 7304.29.40.60, 7304.29.40.80, 7304.29.50.15, 7304.29.50.30, 7304.29.50.45, 7304.29.50.60, 7304.29.50.75, 7304.29.60.15, 7304.29.60.30, 7304.29.60.45, 7304.29.60.60, 7304.29.60.75, 7305.20.20.00, 7305.20.40.00, 7305.20.60.00, 7305.20.80.00, 7306.20.10.30, 7306.20.10.90, 7306.20.20.00, 7306.20.30.00, 7306.20.40.00, 7306.20.60.10, 7306.20.60.50, 7306.20.80.10, and 7306.20.80.50. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Okura

Okura & Company (America) Inc. (Okura America) imported subject merchandise from its affiliate, Okura & Co. Ltd. (Okura Japan). The OCTG entered the United States under temporary import bond (TIB) for further processing (threading and coupling) by Okura America. There were no sales of subject merchandise in any form (i.e., as imported or as further processed) to unaffiliated parties in the United States during the period of review (POR). All of the subject merchandise Okura America entered under TIB was re-exported to Okura & Company (Canada) Ltd. (Okura Canada) for sale to Canadian customers. Upon re-export, pursuant to the North American Free Trade Agreement (NAFTA) rules and section 181.53(a)(1) (A)–(C) of U.S. Customs regulations, U.S. Customs treated the merchandise as if it had entered the United States for consumption and compelled Okura (America) to pay antidumping duty cash deposits at the rate of 44.2 percent.

Okura maintains that "because the merchandise at issue was exported without sale to an unaffiliated U.S. customer, the statute, and fairness, prohibit the imposition of antidumping duties on these entries," and cites 19 U.S.C. 1677a (a) and (b) (section 772 (a) and (b) of the Act); *Torrington Company* v. *United States*, 82 F.3d 1039, 1044–47 (Fed. Cir. 1996); *Extruded Rubber Thread From Malaysia, Final Results of Antidumping Duty Administrative Review*, 62 FR 33588 (June 20, 1997). Okura asserts that it only requested this review in order to confirm that "(1) no antidumping duties should be assessed on Okura's consumption entries during the POR because all the merchandise in question was re-exported, and (2) that Okura is entitled to a refund of the cash deposits that were collected on those entries."

The petitioner asserts that the imposition of antidumping duties on Okura's TIB entries is required pursuant to Article 303 of the NAFTA, Section 203 of the NAFTA Implementation Act (19 U.S.C. 3333), and U.S. Customs regulations implementing NAFTA duty deferral/drawback provisions (19 CFR 181.53). The petitioner asserts that "under Article 303(3) of the NAFTA, if a non-NAFTA origin good is imported into the territory of a NAFTA Party pursuant to a TIB or other duty deferral program, and is subsequently exported to the territory of another NAFTA Party, the Party from whose territory the good is exported must treat the entry as an entry for domestic consumption and assess customs duties on such merchandise." The petitioner maintains that "while such duties may be waived or reduced to the extent permitted under Article 303(1), Article 303(2) specifically prohibits NAFTA parties from refunding, waiving or reducing certain specified duties, including antidumping and countervailing duties, on such exported goods."

Dumping is defined as the sale of merchandise in the United States at less than its NV. Thus, when the Department finds dumping, section 731 of the Act directs the agency to impose upon imports of the subject merchandise an antidumping duty in the amount by which the NV exceeds the export price (EP) or constructed export price (CEP). Section 772 of the Act defines EP and CEP as a price to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for export to the United States.

Once an antidumping order is in place, section 751(a) of the Act directs the Department to conduct an administrative review, upon request, to determine the NV, EP and/or CEP and dumping margin for each entry of the subject merchandise under review. Thus, the Department's ability to conduct an administrative review of an antidumping duty order depends on the existence of entries and sales to unaffiliated U.S. purchasers or unaffiliated purchasers for export to the United States.

Without consumption entries, there is nothing upon which the Department may assess duties that could be determined during the course of a review. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.*, 62 FR 54043, 54049 (Oct. 17, 1997). Therefore, merchandise that does not enter the United States for consumption is not subject to antidumping duties. Subject merchandise imported under TIB is not entered for consumption in the United States. Accordingly, the Department has determined that merchandise entered under TIB, even when purchased by an unaffiliated party, is not subject to antidumping duties. *See* Remand Determination: *Titanium Metals Corp.* v. *United States*, 94–04–00236 (April 17, 1995)(*Titanium Sponge Remand*) ("because TIB entries are not consumption entries, we determine that TIB entries are not subject to antidumping duties and the estimated duty deposit requirement of the antidumping law"). The Department's decision was affirmed by the United States Court of International Trade (CIT) in *Titanium Metals Corp.* v. *United States*, 901 F. Supp. 362 (CIT 1995).

Moreover, subject merchandise that is entered for consumption but is not sold in any form (either in the form as entered or as further manufactured) to an unaffiliated customer in the United States is not subject to antidumping duties because there is no U.S. sale and, therefore, no margin could be calculated. *See Torrington Co.* v. *United States*, 82 F.3d 1039 (Fed. Cir. 1996). Therefore, when an affiliate of the exporter enters subject merchandise for consumption, but re-exports the merchandise (in the form as entered or as further manufactured), i.e., the merchandise is never sold in any form to an unaffiliated U.S. customer, the Department does not include those entries in its dumping analysis. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review*, 56 FR 31692, 31743 (July 11, 1991). The Department's practice in this context was affirmed by the Federal Circuit in *Torrington Co.* v. *United States*, 82 F.3d 1039 (Fed. Cir. 1996).

In this review, we considered whether NAFTA rules require the Department to deviate from the principles described above. Article 1901.3 of the NAFTA states that "no provision of any other Chapter of this Agreement shall be construed as imposing obligations on a Party with respect to the Party's antidumping law or countervailing duty law." Thus, the parties made clear that NAFTA did not require any changes in

antidumping duty law or practice. Therefore, if it is possible to read the NAFTA rules in a manner consistent with the law and practice discussed above, the entries in question should not be subject to antidumping duties.

Article 303 of NAFTA addresses duty drawback and duty deferral programs, including TIB. Specifically, Article 303(3) provides that merchandise entered under TIB in the United States and subsequently reexported to another NAFTA party shall be considered to be entered for consumption and shall be subject to all relevant customs duties. Thus, the TIB status of such entries does not necessarily insulate these entries from the assessment of antidumping duties. Paragraph 2 of Article 303 further provides that "no party may, on condition of export, refund, waive or reduce an antidumping or countervailing duty that is applied pursuant to a Party's domestic law and that is not applied inconsistently with Chapter Nineteen." Nevertheless, Article 303.3(a) does not compel the assessment of antidumping or countervailing duties that would not otherwise be applied under a party's domestic law.

With respect to Okura, as there are no sales to unaffiliated customers in the United States nor sales to unaffiliated customers for exportation to the United States, antidumping duties would not be applied under current law and practice. Therefore, liquidating these entries without regard to antidumping duties would not constitute a waiver, refund or reduction of antidumping duties under NAFTA. The NAFTA rules do not change the requirement that there be a U.S. sale to calculate a dumping margin. Since there is no U.S. sale, we are rescinding this review with regard to Okura, and will order Customs to liquidate the entries at issue without regard to antidumping duties.

SMI/Sumitomo Corporation (SC)

Verification

As provided in section 782(i) of the Act, we verified information provided by SMI (sales and difference in merchandise (DIFFMER)) from July 9, 1999 through July 17, 1999, using standard verification procedures, including on-site inspection of SMI's manufacturing facilities and the examination of relevant sales and financial records. We also verified information provided by SC (sales) from July 19, 1999 through July 21, 1999, using standard verification procedures including examination of relevant sales and financial records. Our verification results are outlined in public versions of the verification reports on file with the Central Records Unit, in Room B–099 of the Herbert C. Hoover Building.

Affiliation

SMI is a diversified manufacturer of high quality steel products, including OCTG, and a supplier of construction, plant, and system engineering services. SC is a major trading company with interests in business sectors ranging from metals and motor vehicles to fertilizer and fashion.

The petitioner contends that SMI and SC should be considered "affiliated parties" as defined by the Department's regulations. In its May 20, 1999 submission, the petitioner specifically cites SC's and SMI's joint ownership interests, corporate interrelationships, and close customer/supplier relationship as "overwhelming evidence" of the two parties' affiliation.

In its original response to our antidumping duty questionnaire, SMI stated that "none of the products under review were sold to affiliates," a position that it has argued consistently throughout this review. Although SMI has acknowledged substantive, long-standing commercial and corporate links with SC, including but not limited to those mentioned in the petitioner's May 20, 1999 submission, SMI asserts that these links do not constitute "affiliation" as defined by the statute and the Department's regulations.

Section 771(33) of the Act describes affiliated persons, in part, as "two or more persons directly or indirectly controlling, controlled by, or under common control with, any person." Moreover, the statute provides that "a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person." *Id.*

The legislative history makes clear that the statute does not require majority ownership for a finding of control.[1] Rather, the statutory definition of control encompasses both legal and operational control. A minority ownership interest, examined within the context of the totality of the evidence, is a factor that the Department considers in determining whether one party is legally or operationally in a position to control another. *See Certain Cut-To-Length Carbon Steel Plate From Brazil*, 62 FR 18486, 18490 (April 15, 1997); *see also* 19 CFR 351.102(b).

Additionally, evidence of actual control is not required for a finding of affiliation within the meaning of section 771(33) of the Act; it is the ability to control that is at issue. *See also Proposed Rules*, 61 FR 7308, 7310 (February 27, 1996). The Department has stated that merely identifying "the presence of one or more of the other indicia of control (as per Section 771(33) of the Act) does not end our {the Department's} task."[2] The Department is compelled to examine all indicia, in light of business and economic reality, to determine whether they are evidence of control. In determining whether control over another person exists, within the meaning of section 771(33) of the Act, the Department will consider the following factors, among others: corporate or family groupings; franchise or joint venture agreements; debt financing; and close supplier relationships. However, the Department will not find affiliation on the basis of these factors unless the relationship has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product. *See* 19 CFR 351.102(b).

SMI and SC have significant equity interests in multiple joint ventures. We considered whether these joint ownership interests establish that SMI and SC control these third parties, as contemplated by section 771(33)(F) of the Act. In doing so, we took note of the decision of the CIT in *Mitsubishi Heavy Industries, Ltd.* v. *United States*, 15 F. Supp. 2d 807 (1998) (*Mitsubishi*). In *Mitsubishi*, the CIT held that "the statutory definition of affiliated parties at 19 U.S.C. 1677(33)(F) does not require two companies exercise control over each other. The statute requires only that two or more persons control a third person."

Because of the nature of SMI's and SC's holdings in these joint ventures, the Department has found SMI and SC are "legally or operationally in a position to exercise restraint" over those third parties. Thus, we conclude that SMI and SC have a joint control relationship within the meaning of section 771(33)(F) of the Act. Because most of the information on which we relied to perform our analysis is proprietary, it cannot be discussed in this notice. However, a memorandum

[1] The Statement of Administrative Action states that: "[t]he traditional focus on control through stock ownership fails to address adequately modern business arrangements, which often find one firm 'operationally in a position to exercise restraint or direction' over another even in the absence of an equity relationship." *See* SAA at 838.

[2] See 61 FR 7310 (February 27, 1996) Antidumping Duties; Countervailing Duties. Notice of proposed rulemaking and Request for Public Comments.

detailing our analysis has been prepared. (*See* the proprietary version of the Memo from Barbara E. Tillman to Robert S. LaRussa regarding "Affiliation of Sumitomo Metal Industries Ltd. and Sumitomo Corporation," dated August 31, 1999 (Decision Memo).

While SMI and SC control these joint ventures, we recognize the regulatory guidance indicating that a control relationship will not establish affiliation for the purposes of our antidumping duty analysis unless that relationship "has the potential to impact decisions concerning the production, pricing, or cost of the subject merchandise or foreign like product." *See* 19 CFR 351.102(b). In reaching a determination in this regard, we considered the totality of the record evidence relevant to the relationship between SMI and SC. As discussed below, numerous other factors reflect a relationship between these two parties such that there is potential to impact the transactions between SMI and SC involving the subject merchandise.

In addition to the joint ventures which we examined in finding a control relationship under section 771(33)(F) of the Act, SMI and SC are jointly invested in other companies. SMI's and SC's history of extensive joint investments in numerous companies reflects a significant commonality of interests between SMI and SC. This commonality of interests between SMI and SC gives rise to a potential to impact decisions concerning the pricing of OCTG sold by SMI to SC. *See* Decision Memo.

The potential to impact pricing decisions in transactions between SMI and SC is further reflected in SMI's and SC's long standing customer and supplier relationship. SMI started dealing with SC with regard to OCTG around 1952 and has maintained the business relationship since that time. On a worldwide basis, SMI sells a significant portion of its OCTG to SC. Likewise, SC derives a significant percentage of its OCTG purchases from SMI. *See* Decision Memo.

Finally, we viewed SMI's and SC's relationship in the context of the Sumitomo Group (SG) as a whole. SG holds itself out as a corporate group which consists of twenty "core" companies that operate in thirteen different business sectors. SMI and SC are core members of the group. The 20 core companies have a variety of close corporate and commercial links. SMI's and SC's membership in the SG is further evidence that SMI's and SC's relationship has the potential to impact decisions concerning the transactions between SMI and SC involving the subject merchandise. *See* Decision Memo.

In sum, SMI and SC, through their substantial joint interests in several joint ventures, have the potential to control or restrain those joint ventures within the meaning of paragraph (F) of section 771(33). In addition, SMI's and SC's significant commonality of interests, demonstrated by multiple joint investments, a long-standing customer/supplier relationship, and their membership in the SG, establishes that the relationship has the potential to impact pricing in transactions involving the subject merchandise. Therefore, we determine that SMI and SC are affiliated parties under paragraph (F) of section 771 (33) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents that are covered by the description in the "Scope of Review" section above and sold in the home market during the POR to be foreign like products for purposes of determining appropriate product comparisons for merchandise sold to the United States. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar home market like product on the basis of the characteristics listed in Appendix III of the Department's October 16, 1998 antidumping questionnaire.

Comparisons to Normal Value

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the CEP to NV, as described in the "United States Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average home market prices for NV and compared these to individual U.S. transaction prices.

United States Price

For sales in the United States, the Department uses EP when the subject merchandise was sold to the first unaffiliated purchaser in the United States by the producer or exporter outside the United States prior to importation, and CEP is not otherwise warranted by facts on the record. Because the Department has found SMI and SC to be affiliated, and the subject merchandise was not sold to an unaffiliated purchaser until after its importation into the United States, the starting price for CEP is the price from SC's U.S. affiliate to unaffiliated customers in the United States.

The Department calculated CEP (there were no EP sales) for SMI based on packed, prepaid or delivered prices to SC's customer in the United States. In accordance with section 772(c) of the Act, we reduced CEP by movement expenses (international freight, marine insurance, inland freight, and duties. In accordance with section 772(d)(1) of the Act, we deducted direct selling expenses (credit, advertising, and warranty expenses) and indirect selling expenses, including inventory carrying costs. Finally, we made an adjustment for an amount of profit allocated to selling expenses incurred in the United States, in accordance with section 772(c) of the Act.

It is the Department's current practice normally to use the invoice date as the date of sale; we may, however, use a date other than the invoice date if we are satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR § 351.401(i); *Preamble to the Antidumping Duty Regs.*, 62 FR at 27411. Our questionnaire instructed SMI/SC to report the date of invoice as the date of sale; it also stated, however, that, for CEP sales, "(t)he date of sale cannot occur after the date of shipment." In this review, SC's date of shipment always preceded the date of invoice, and therefore we cannot use the date of invoice. Instead, in accordance with 19 CFR 351.401(i), the home market sales dates are the dates on which the goods were shipped to the unaffiliated customer. In addition, the U.S. sales dates are the dates on which SC shipped the goods from the U.S. port of unloading to its unaffiliated customer.

Normal Value

The Department determines the viability of the home market as the comparison market by comparing the aggregate quantity of home market and U.S. sales. We found that SMI's quantity of sales in its home market exceeded five percent of its sales to the United States. We therefore have determined that SMI's home market sales are viable for purposes of comparison with sales of the subject merchandise to the United States, pursuant to section 773(a)(1)(C) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price, net of discounts, at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of

trade as the CEP sales. *See* the "Level of Trade section" below. We determined what home market merchandise was most similar to the merchandise sold in the United States on the basis of product characteristics set forth in sections B and C of the Department's questionnaire.

For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses (credit expenses, advertising, and royalties) pursuant to section 773(a)(6)(C)(iii) of the Act. We also made adjustments, where applicable, for movement expenses, in accordance with sections 773(a)(6)(A) and (a)(6)(B) of the Act. We also made adjustments for differences in the costs of manufacture for subject merchandise and matching foreign like products, attributable to their differing physical characteristics, pursuant to section 773(a)(6)(C)(ii) of the Act, and for home market indirect selling expenses, up to the amount of U.S. indirect selling expenses, in accordance with section 773(a)(7)(B) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the home market at the same LOT as U.S. sales. The NV LOT is the level of the starting-price sale in the home market or, when NV is based on constructed value, the level of the sales from which we derive selling, general, and administrative expenses (SG&A) and profit. For export price, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer. To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For merchandise sold in the home market during this POR, SMI claimed one distribution channel and one LOT and SC claimed two distribution channels and one LOT. Regardless of the distribution channel, the selling functions performed by SMI, or by SMI and SC combined where the sale was made through SC, were substantially the same. Therefore, we concluded all sales in the home market were made at one LOT.

We then compared the selling functions in the U.S. and home markets. At the level of CEP sales to the United States, i.e., after eliminating from consideration the selling functions associated with deductions made under section 772 of the Act, we found that the CEP sales were made at a different and less advanced level of trade than home market sales.

Because there are no sales in the home market made at the same LOT as sales in the United States, we were not able to determine whether the difference in LOT affects price comparability. Therefore, we made a CEP offset adjustment. In accordance with 19 CFR 351.408(f)(2), we deducted indirect selling expenses from NV to the extent of U.S. indirect selling expenses. For a further discussion of the Department's LOT analysis with respect to SC, see *Memorandum to the File: Analysis Memorandum for the Preliminary Results of Review for SMI*, August 31, 1999.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average dumping margin for the period August 1, 1997 through July 31, 1998 to be as follows:

Manufacturer/exporter	Margin percentage
SMI	0.00

The Department will disclose to the parties to the proceeding calculations performed in connection with these preliminary results of review within five days after the date of publication of these preliminary results of review.

Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 2 days after the date of filing of rebuttal briefs or the first business day thereafter. Case briefs from interested parties may be submitted not later than 30 days after publication. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing of case briefs. The Department will publish the final results of this administrative review, including its analysis of issues raised in the case and rebuttal briefs, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b), we calculated importer-specific ad valorem duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Act: (1) The cash deposit rate for each reviewed company will be that established in the final results of review (except that no deposit will be required for firms with *de minimis* margins, i.e., margins less than 0.5 percent); (2) for exporters not covered in this review, but covered in the less than fair value (LTFV) investigation or a previous review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate established in the LTFV investigation, which was 44.20 percent. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant

entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C 1677f(i)(1)).

Dated: August 31, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990520139–9221–02; I.D. 050799B]

RIN 0648–AM68

Disaster Assistance for Northeast Multispecies Fishery Failure

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

ACTION: Notice of final program.

SUMMARY: NMFS publishes a final program for disbursing funds to assist persons who have incurred losses from a commercial fishery failure due to the declining stocks of groundfish which has caused harm to the Northeast multispecies fishery. This document provides information concerning criteria for eligibility, limitations and conditions for receiving disaster assistance.

DATES: Effective September 7, 1999.

ADDRESSES: Questions or requests for information about financial assistance may be sent to: Leo Erwin, Chief, Division of Financial Services, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. All other inquiries should be sent to: Kevin Chu, NMFS, 166 Water St., Woods Hole, MA. 02543.

FOR FURTHER INFORMATION CONTACT: Kevin Chu, Northeast Region (508) 495–2367).

SUPPLEMENTARY INFORMATION:

Background

In the Emergency Supplemental Appropriations section of the FY 1999 Appropriations Act (Public Law No. 105–277), Congress appropriated $5 million to NOAA to provide emergency disaster assistance to persons or entities in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure under a fishery resource disaster declaration made in 1994 pursuant to section 308(b) of the Interjurisdictional Fisheries Act (IFA) of 1986. Although the funds are available until used, NMFS is not obligated to compensate every individual affected by the Northeast multispecies collapse or to expend all the funding on assistance.

Pursuant to his authority under this section of the IFA, former Secretary of Commerce Ron Brown declared a fishery resource disaster on March 18, 1994, for the Northeast multispecies fishery. This disaster has extended through this year and is expected to continue, causing a number of additional fishery closures in New England and economic hardship in the fishery.

The Gulf of Maine stocks of groundfish have declined drastically over the past three decades. Since the first declaration of a fishery disaster in 1994, recovery measures for Northeastern groundfish have improved the prospects for commercially important cod, haddock, and yellowtail flounder stocks on Georges Bank, but measures intended to protect Gulf of Maine cod have not been as successful. Gulf of Maine stocks of cod, white hake, American plaice, and yellowtail flounder remain overfished. The spawning biomass continues to decline, reducing the probability that sizable groups of new fish will be produced. As a result of the continued crisis in the Northeast multispecies fishery, a number of areas in the Gulf of Maine have been closed to many types of fishing gear for up to 3 months during the period of February through June 1999, resulting in lost fishing opportunities.

On June 11, 1999, NMFS published a document in the **Federal Register** (64 FR 31542) seeking comments on the proposed program for disbursing the disaster assistance funds. This document presents the final program for disbursing the funds and responds to the comments received.

The final program has two components. First, NMFS will provide direct assistance by compensating Federal permit holders and crew for economic harm based on reductions in used Days-at-Sea (DAS) under the authority of section 308(d) of the IFA. In exchange for this compensation, permit holders must commit to operating their vessels for research on fishery-related subjects, participating in another activity approved by the NMFS Northeast Regional Administrator (RA), or providing personal economic and social data important for evaluating the effects of fishery management decisions. Second, NMFS will set aside $100,000 of the funds for the training and deployment of at-sea data collectors aboard scallop fishing vessels to monitor groundfish bycatch, particularly of yellowtail flounder. This document explains the direct assistance program, but does not discuss the training and deployment part of the program, which is already underway.

The direct assistance program has two goals: (1) To provide a mechanism to get financial assistance to fishermen most affected by the groundfish collapse; and (2) to involve the industry in fisheries and gear research, thereby providing additional data for the long-term management of the fishery. This program uses a formula for calculating lost fishing opportunities as an indicator of the economic harm caused by the declining groundfish stocks.

Comments and Responses

NMFS received comments from the States of Maine and Massachusetts, representatives of three commercial fishing organizations, two academic institutions, seven commercial fishermen, and one recreational fisherman. We have grouped similar comments here.

Comment 1: Because the program relies on a calculation of DAS not used, the program rewards persons who did not try to fish during the spring closures but penalizes the persons who used DAS to try to make a living by fishing, even if they lost money while doing so.

Response: NMFS recognizes that some persons may receive reduced benefits under this program because they made the effort to continue fishing by moving their fishing location in response to the 1999 rolling closures. These people will have expended extra money to try to keep fishing, and they may not have made enough to justify their costs. Since persons who did not fish will be compensated under this program, those who did fish are likely to feel that they are being unfairly penalized for making the effort to continue fishing, especially if they lost money doing so. NMFS notes, however, that such fishermen were able to move their operations to avoid the closures. NMFS continues to believe that the assistance program should target persons who could not move their operations to another port or farther offshore, and, therefore, were more vulnerable to the closures.

NMFS and fishermen agree that $5 million is not enough to compensate all

persons and entities affected by the declining groundfish stocks. In developing this disaster assistance program, NMFS has had to make difficult decisions about how to spread a limited amount of money among a relatively large number of persons. This program is intended to assist those who have had the fewest options for making a living from fishing during the winter/spring 1999 rolling closures.

In developing this program, NMFS also considered the time it will take for eligible persons to receive compensation. The program is designed to use information already held by NMFS to calculate eligibility and compensation levels, hence, avoiding a lengthy review of the records of individual fishermen. While a program that somehow balances a person's financial need and his or her efforts to continue fishing could be developed, implementing such a program (reviewing individual case histories) would be extremely time-consuming. This would further delay the release of disaster assistance funds and extend the financial crisis for those who will be compensated, so that the overall benefit of the program would be substantially diminished.

Comment 2: The disaster assistance program excludes from compensation many people who were affected by the decline in the stocks of groundfish, including other fishermen and shore-based infrastructure. These people should also be eligible for compensation.

Response: NMFS agrees that many persons affected by the groundfish declines will not be eligible for compensation under this program. As noted in the response to Comment 1, the current level of funding for this program in not sufficient to compensate all persons who have been affected by the commercial fishery failure. NMFS believes it is appropriate to target the limited funds to that portion of the commercial harvesting sector that has been most heavily affected by groundfish declines, i.e., those persons who have been unable to move their operations to avoid the impacts of the rolling closures. This assistance may keep some vessels active that might otherwise have left the fishery, thus providing an indirect benefit for persons or industries that support the activities of such vessels.

Comment 3: Other fisheries such as the scup fishery in the Northeast are also in decline and deserve compensation. Also, since all federally permitted DAS vessels were prohibited from fishing in the rolling closure areas, scallop fishermen and groundfish fishermen should all be allowed to receive compensation.

Response: NMFS agrees that other fisheries are also in decline and that other persons are also suffering economic hardship as a result of those declines. However, Congress specifically appropriated funds to assist persons or entities affected by the disaster declared in the Northeast multispecies fishery. Therefore, notwithstanding the economic need of persons in other fisheries, NMFS has targeted persons in the Northeast multispecies fishery for this assistance program. Furthermore, beginning in May 1999, scallop vessels were no longer prohibited from the inshore Gulf of Maine closed areas.

Comment 4: These disaster relief funds should be limited to the multispecies fishery. To the extent that these funds are to be utilized for observers, they should be observing groundfish vessels.

Response: NMFS agrees that these funds should be limited to the multispecies fishery (see Comment 3). However, we do not agree that this would require that only groundfish vessels be observed using these funds. Some of these funds are being used to train and deploy observers on scallop vessels. The purpose of these observers is to monitor the bycatch of groundfish species, especially yellowtail flounder, to ensure that it does not exceed levels set to conserve the species.

Comment 5: Persons who had set aside DAS to be used for groundfish fishing during the rolling closures of 1999 should be eligible for compensation. These people have been affected twofold by the closures, first by not fishing during other times because they were saving DAS for the winter months, and second by the closures themselves. Reserving 30 to 40 DAS should be considered evidence that the person intended to fish for groundfish during this time.

Response: NMFS understands that persons who were saving DAS to fish during the winter months and who were subsequently prevented from fishing were severely affected by the closures. However, NMFS does not have a mechanism to distinguish persons who saved DAS to be used during the rolling closures from persons who would not have used their full DAS anyway. Demonstrating the intent to fish during the closures would be difficult and time-consuming, because it would require reviewing each individual's case history. Therefore, because compensation cannot be released until the total number of DAS requested for compensation is known, NMFS will not establish a mechanism to compensate persons based solely on the intent to fish.

Comment 6: Anyone who can document a major reduction in Gulf of Maine cod landings without attendant discard problems should be eligible to receive compensation.

Response: In concept, declines in cod landings could be a basis to allocate the disaster assistance. However, in practice, this would be difficult and time-consuming, as it would require a review of each permit holder's records.

Comment 7: The program should compare a vessel's DAS use from FY 1998 to FY 1999 for the entire year rather than on a month-to-month basis from February through June. By so doing, NMFS would then compensate for a net reduction in multispecies effort for the year.

Response: The concept of using days fished over the entire fishing year has merit. However, the current fishing year will not end until April 30, 2000. The impacts of the May and June 1999 closures would not be measurable until that time. NMFS believes that delaying the release of these funds until then is not acceptable.

Comment 8: Using DAS as a proxy measure for economic harm makes it appear as if NMFS is paying for unused DAS. NMFS should not set the precedent that DAS are a compensable right.

Response: NMFS agrees that DAS are not a compensable right. The use of DAS is only intended as a proxy measurement of the economic harm caused by the declining groundfish stocks. NMFS is not buying DAS, nor can DAS be traded between vessels or exchanged for any compensation.

Comment 9: The fishermen who would be compensated do not deserve financial assistance because they have been the impetus behind ineffective management measures and because the declining groundfish stocks are due to commercial overfishing.

Response: Overfishing is only one factor in the declines of groundfish stocks in the Northeast. Even if overfishing (of which commercial fishing is a substantial but not exclusive contributor) is the major factor in the groundfish decline, this does not change the fact that individuals are now in dire economic straits because of the reduction in fishing opportunities. Congress recognized the economic hardship caused by the continuing disaster in the multispecies groundfish fishery and appropriated funds to help alleviate the economic impact of the stock decline.

Comment 10: Fishermen should not have to offer their vessels for research, because the funds are to compensate for money already lost, and because the added cost of doing the research would diminish the economic value of the program to participants.

Response: Most fishermen who provided advice during the development of this program expressed the view that they do not want a handout from the government. Rather, they would like to find a creative way to give something back in exchange for the much-needed financial assistance this program will provide. Consistent with Congressional advice for this funding, this program is designed to compensate fishermen for their economic loss in exchange for information and research support for the long-term management of the fishery.

Comment 11: There is opposition to the provision that a permit holder would have to provide income tax information if their vessels were not used for research. The chief concerns are that the tax records might be used for enforcement purposes and that NMFS would not adequately protect privileged information.

Response: The purpose of collecting tax information is to obtain information needed to evaluate the economic impacts of future fishery management measures. NMFS is required by law to take account of the economic impacts as well as the biological consequences of regulations, but we have limited economic information on the operating costs of vessels upon which to base our analyses. The income tax information will improve our knowledge of the economic situation of groundfish fishermen.

NMFS has no intention of using the income tax information for enforcement purposes. NMFS assumes that the information provided to the Internal Revenue Service (IRS) is correct and complete. The Privacy Act of 1974 provides protection of privacy to individuals on whom records are maintained. We will keep tax information of individuals confidential in compliance with the Privacy Act, and will only release data to the public in aggregate form. Files will only be released to agency personnel who can demonstrate a need to know the financial information enclosed.

NMFS has modified the program such that it is not necessary to submit a 1998 income tax return to verify that a recipient's net income from commercial fishing does not exceed $75,000 ($150,000 if filing jointly). Instead, recipients must certify that their income does not exceed that threshold. Certifications are subject to possible punishment under 18 U.S.C. 1001, including fine or imprisonment, for false statements. Suspected false submissions will be turned over to the Commerce Office of Inspector General (OIG) for investigation.

Comment 12: This program will set the precedent that the government should pay fishermen to provide economic and social data, which is a concern for programs that rely on such data to be provided on a voluntary basis.

Response: NMFS does not believe that persons should be paid to provide economic or social data necessary for fishery management decisions, nor do we believe that this program will set such a precedent. Persons are not being compensated for providing economic information, but rather because they have suffered economic harm from the declines in groundfish stocks. Because fishermen generally have wanted to give something back in return for financial assistance, compensation through this program carries with it a commitment by the recipient to help the government get better information upon which to base fishery management decisions. The commitment to provide economic information applies only if a permit holder is not asked to provide a vessel for research or does not perform an alternate approved activity.

Comment 13: The provision that logbooks would be used to determine historical activity only if they contain sufficient information to tell whether a vessel historically fished in the closed areas would exclude some fishermen from compensation based on a technicality. NMFS should have insisted earlier that this information be provided and should have returned incomplete logbooks for revision. NMFS should presume that a vessel's fishing activity was in a given block if the vessel sailed and landed from a port adjacent to a closed block within a 24-hour period. The number of permit holders that are affected by this provision is probably small, and it would not be administratively burdensome for NMFS to make some accommodation for these persons. Alternatively, the permit holder's statement that he or she fished in a closed area should be sufficient.

Response: NMFS will base its calculations of compensation on all logbooks that have been submitted as of July 15, 1999, that contain all the needed information, including information on the latitude/longitude (or Loran lines) of where gear was fished. Any other method of calculating historical activity would also be controversial, given the comments received (see Comment 14), and would have an unfair impact on persons whose logbooks were correctly filled out and who complied with the regulations that have been in place since 1994. NMFS acknowledges the advice that the number of persons affected by this situation is probably small.

Comment 14: NMFS should limit its consideration to logbooks that were filed on a timely basis and from which reliable data can be obtained. Failure to require complete vessel logbooks to calculate historical activity as confirmation of eligibility would condone either willful disregard for management regulations or intentional deception.

Response: See response to Comment 13.

Comment 15: The income limit of $75,000 is too low. People with higher incomes may also feel the hardship of not being able to work. Such persons may have greater financial commitments and, hence, have just as great a need for assistance. NMFS should justify this particular limit.

Response: NMFS will retain the limit on net incomes from commercial fishing of $75,000 (or $150,000 if filing jointly) as proposed. The limit of $75,000 is approximately twice the median income of $37,005 for U.S. households in 1997 (Census Bureau, September 1998). Joint tax filers will be allowed an income from commercial fishing of up to four times the U.S. median household income. NMFS agrees that persons or entities with incomes above this level also have financial commitments and that the declining groundfish stocks may have had a serious impact on their financial status. However, NMFS believes that the limited funds should not be used to provide assistance to persons or entities with incomes more than twice the median level.

Comment 16: Party/charter boats have had to readjust their operations or went bankrupt because of the declining groundfish stocks and, therefore, they also deserve compensation.

Response: NMFS agrees that party/charter vessels have also been affected by the groundfish declines. However, the impact has not been as drastic, because these vessels have not been excluded from fishing in the inshore rolling closure areas. Since disaster assistance funds are limited, NMFS does not believe it is appropriate to include party/charter vessels in this program.

Comment 17: Explain in detail how the disaster assistance funds will be spent.

Response: Congress appropriated $5 million for the disaster assistance program. Of this amount, $4.65 million

will be used to compensate fishermen through the program detailed in this document. If all these funds are not claimed by fishermen, the remaining funding will be used to subsidize the additional costs to vessels of carrying out the cooperative research program.

Of the remaining $350,000, $100,000 will be used to train and deploy observers aboard scallop vessels to monitor the bycatch of groundfish, especially yellowtail flounder. Finally, $250,000 will be used to cover administrative costs of the disaster assistance program.

Comment 18: NMFS should reserve any unclaimed funds for other disaster assistance programs rather than using the money for research.

Response: While the disaster assistance provided directly to fishermen through this program helps them cope with short-term problems, NMFS believes that helping to finance research will help the long-term recovery of the fishery, and, therefore, is a valid and useful part of the overall disaster assistance program. Both the fishing industry and the general public will benefit if NMFS uses unclaimed disaster assistance funds to help cover costs of research undertaken through this program. The research projects have the potential of providing important information about fish stocks and ways to reduce the catch of non-target species. The cooperative research program also has the potential to encourage greater understanding between fishermen and scientists.

Comment 19: The requirement that researchers pay for fuel and other operating costs could be an insurmountable obstacle for research projects. Some of the disaster assistance funds should be set aside to cover these costs or the fishermen should be required to pay them. NMFS should provide additional funds to the permit holder to cover costs associated with a research day at sea, including lost wages if the captain or crew have another job.

Response: NMFS believes that the researchers, not fishermen, should pay for research costs, since fishermen will be contributing their vessel, crew, and time to the research effort. If not all the disaster assistance funds are claimed by fishermen under this program, NMFS intends to use the remaining funding to cover the operating costs of the vessel. NMFS cannot promise, however, to cover any additional costs to the permit holders of executing this research, since there are no additional funds set aside for this purpose.

Comment 20: Clarify the process by which NMFS will decide which research projects qualify for using the fishing vessel DAS committed under this program.

Response: NMFS will announce that we are seeking projects to use the available fishing vessels, and list the vessels available. NMFS may also publish information about the program in appropriate scientific journals so that persons are aware of the opportunity. NMFS will establish a committee or use an existing organization comprised of scientists, fishermen, and government officials to review each scientific proposal for its technical merit and feasibility and to decide which proposals should have priority. NMFS will either appoint an individual to coordinate the execution of the research projects and to keep track of DAS used, or contract this task out.

Comment 21: The research obligation of fishermen compensated through this program should be extended to May 31, 2001, because it will take time to find funding for and organize the research projects.

Response: NMFS agrees that it may take considerable time to organize and prepare for using fishing vessels for research, but we believe that permit holders should know as soon as possible whether they will be asked to provide their vessels for research. Therefore, NMFS will stipulate that if a permit holder is not asked to provide his or her vessel for research by September 30, 2000, the research obligation lapses. However, NMFS will modify the program to allow the obligation to complete research assigned by that date to extend beyond the April 30 deadline, if approved by the RA. This provision will allow permit holders more flexibility in scheduling research, and will allow researchers more time to find funding and prepare for the research project. If a permit holder is asked to do research but the researcher is not able to find funding or complete the project, the permit holder is not obligated to participate and will not lose DAS if that project is not completed.

Comment 22: NMFS should specify in advance whether research in closed areas will be allowed under this program.

Response: Each project will be reviewed on a case-by-case basis. NMFS will not authorize any research activity that compromises the conservation measures designed to rebuild the stocks of groundfish.

Comment 23: Clarify the policy on when and where research under the Massachusetts Fishery Recovery Commission Plan will occur.

Response: The Massachusetts Fishery Recovery Commission (MFRC) Plan is a separate activity from this program. The MFRC prepared a draft strategic plan for fisheries research, which may be finalized prior to the publication of this document. NMFS has not been asked to approve the MFRC plan, nor is our approval needed. However, MFRC is welcome to submit its strategic plan to the committee that will review and prioritize research projects using the fishing vessels available through this disaster assistance program.

Comment 24: Fishermen might be forced to lose additional fishing time when fulfilling their commitment to perform research.

Response: NMFS does not intend for this program to diminish fishing opportunities for fishermen. The research commitment is expected to be fulfilled at a mutually convenient date for fishermen and researchers. For this reason and because it may take time to organize the research projects, NMFS is adding a provision whereby the date by which the research must be completed can be extended on a case-by-case basis by the RA (see Comment 21).

Comment 25: Justify the compensation level of $1500.

Response: NMFS decided to compensate every applicant at the same rate in order to speed the release of the disaster assistance funds. The alternative, compensating persons based on an amount linked to the daily income of each vessel, has merit but would have required that large amounts of economic income data from each vessel be supplied and reviewed, a step that would have delayed the release of the compensation for months. Therefore, NMFS has decided to compensate persons based on a figure that is about average for the fleet. The specific figure of $1500 per DAS is in line with the NMFS estimate of the net income per vessel affected by the Framework 26 closures of $1596 per day.

Comment 26: Other ways to use fishing vessel DAS could include removing abandoned fishing gear from right whale critical habitat and providing vessel support to assist in whale disentanglements. Also, NMFS should consider allowing fishermen to spend a day teaching children about fishing instead of providing income tax information if their vessels are not used for research. Fishermen's participation in scientist/fishermen workshops and in long-term data collection programs should also qualify as alternatives.

Response: NMFS agrees that there may be other ways besides research to use the fishermen's time or their vessels that could benefit fishery management or the community. Therefore, NMFS will modify the program to allow other

conservation-oriented activities in addition to cooperative research in exchange for compensation, at the discretion of the RA. Because fishermen will be agreeing to undertake research, if asked, in exchange for disaster assistance, NMFS does not believe we should require a permit holder to engage in another type of activity, even if approved by the RA. Therefore, permit holders will have the right to refuse to participate in any alternative activity. If a permit holder chooses not to undertake an alternative activity and is not asked to provide his or her vessel for research by September 30, 2000, however, the permit holder would be obligated to provide economic and social information.

Comment 27: A cessation of fishing activity in 1998 (which would trigger NMFS' use of activity from 1997 to determine historical activity) might be because a vessel's DAS were used up.

Response: NMFS will check to see if a cessation in fishing activity occurred because a permit holder's DAS were used up. The combination of DAS actually fished and DAS used as a proxy for economic harm cannot total more than a permit holder's allotted annual DAS.

Comment 28: Calculating DAS not used on a month-to-month basis could result in a person receiving disaster assistance even if the person did not fish fewer days overall. For example, if a person has 5 days of historical activity in February 1998 and fished 10 days in February 1999, had zero days of historical activity in March 1998 and fished 5 days in March 1999, and had 20 days of historical activity in April 1998 but only fished 10 days in April 1999, the person would be eligible for 10 days of disaster assistance compensation, even though the person fished the same number of days in February through April 1999 as in 1998.

Response: We agree that the proposed plan of calculating DAS on a month-to-month basis could have allowed some persons to receive compensation without a decrease in fishing effort. This was not the intent of the program. Therefore, we will modify the program so that if a person fished more days per month in 1999 than in 1998, the excess 1999 fishing days of one month will be subtracted from the number of days for which a person is eligible to receive compensation in another month. NMFS believes this situation will be rare.

Comment 29: The program would allow some persons who do not use up all their DAS in a year to receive compensation for days not fished, then fish harder later in the year and have a normal fishing year. NMFS should base compensation on the difference between the total number of DAS used in 1998 versus 1999.

Response: NMFS agrees that persons who routinely do not use up all their DAS could receive compensation for days not fished in May and June 1999 and could also fish later in the year as many DAS as they are accustomed to fish. However, this scenario is not likely to be common. Persons who do not use up their DAS are part-time participants in the multispecies fishery. NMFS assumes that they engage in other ways of making a living at other times of the year, either in another fishery or in another field of work entirely. Such a part-time participant is likely to have an annual schedule that permits him or her to fish for multispecies only at certain times of the year. If that time has been denied because of closures, the economic consequences are likely to be just as great as those for a full-time fisherman, and the ability to recoup those losses may be just as difficult.

Comment 30: If a person does not want to receive compensation for all his or her DAS not used, NMFS should provide compensation based on 1998 DAS first, so that a fisherman does not lose 1999 fishing opportunities as well as having lost 1998 DAS for which he or she does not receive compensation.

Response: NMFS agrees. If a person wishes to be compensated for only some of the DAS for which he or she is eligible, or if NMFS is only able to provide compensation for some but not all of the DAS requested, we will provide assistance based first on economic harm calculated from 1998/1999 DAS not used and will only compensate for 1999/2000 DAS not used if all eligible 1998/1999 DAS have been compensated for.

Comment 31: NMFS should allow fishing in the Western Gulf of Maine (WGOM) closure area to count toward historical activity. Otherwise, it would be arbitrary and capricious to treat a small vessel, forced out of the WGOM closure area with no place left to fish due to inshore closures, in the same fashion as a more mobile vessel that was able to relocate after the WGOM closure. Also, there is concern that the historical activity in the WGOM area might be lost forever.

Response: The disaster assistance program is targeted to persons affected by the short-term coastal closures that were instituted in 1999. The WGOM closure area is a 3-year, year-round closure that was instituted in 1998. Because of the different nature of the WGOM closure, NMFS does not believe it is appropriate to base historical activity upon fishing in this area, irrespective of whether the boat could relocate to another area. NMFS agrees, however, that the decision to exclude fishing in the WGOM closure area for the purposes of this program does not imply that historical fishing activity in this area will be lost forever.

Comment 32: Assistance should be provided for persons affected by the Cashes Ledge closures of 1999.

Response: Any vessel fishing in this off-shore area would be sea-worthy enough to move its base of operations to open areas, and would have more flexibility than smaller vessels that have to stay near shore. NMFS believes that the focus of this program should be on those fishermen with the fewest choices that were most affected by the coastal rolling closures of February through June 1999. Therefore, NMFS will not include fishing on Cashes Ledge.

Comment 33: It is not appropriate for NMFS to ask permit holders to provide the names of crew members; a good captain would compensate his or her crew members in any case. This requirement indicates a lack of trust on the part of NMFS.

Response: NMFS believes that it is important to have a formal structure through which to compensate crew members. Crew members are less likely to have savings to withstand slow periods from fishing and may be particularly vulnerable to layoffs during closures. Asking permit holders to identify crew members that should receive compensation and to specify the percentage of the vessel's compensation that should go to the crew members would not seem to interfere with the permit holder's arrangements to compensate crew. Further, because NMFS will compensate the crew members directly, this approach would seem to reduce the paperwork and accounting burden on the permit holder. This arrangement was endorsed by the industry representatives who provided comment during the development of this proposal.

Comment 34: Permit holders should not have any discretion in the criteria used to determine which crew members would be eligible for compensation.

Response: NMFS does not believe that there is a single set of criteria for determining which crew members should be compensated that would apply to all crew situations. We do not have the information needed to make this decision, and it would be time-consuming to obtain the information. Therefore, we will leave this up to the permit holders to determine.

Comment 35: NMFS should consider requiring some form of proof that a crew

member worked for the permit holder for at least 6 out of the last 10 months.

Response: Since this is not a program requirement, but a guideline, no such proof is needed.

Comment 36: The loss of 2001/2002 DAS if a vessel did not comply with the requirement to engage in research by April 30, 2001, is a concern.

Response: NMFS believes that there should be some consequence if a person receives Federal funds but does not honor the commitment to engage in research. No fisherman commented that this provision was inappropriate. Further, DAS will only be deducted if a vessel owner fails to provide his or her vessel for research or to provide economic data as required.

Comment 37: NMFS should delete the provision that the research obligation may be kept by the original permit holder in the case of the sale of a vessel.

Response: NMFS did not intend that the research obligation remain with the original permit holder when the permit is sold to another person. Rather, the research obligation becomes a condition of the permit in all cases. Permits are assumed to transfer with sale of the vessel unless there is a purchase and sale agreement stating otherwise. If a vessel owner sells his or her boat but retains the permit, the research obligation remains with the original permit holder, who must then find a way to fulfill the research obligation or to provide economic data. We have clarified the language explaining this provision of the program.

Comment 38: In exchange for compensation, permit holders should be required to either operate their vessels for research or provide economic and social data. They should not be required to do both, as implied.

Response: NMFS intended the requirement to be to provide either vessels for research or economic and social data. In addition, NMFS will now allow other activities, if approved by the RA. The language in this document reflects that any of these alternatives is allowed.

Comment 39: When using the call-in/call-out system, day boat gillnet vessels are charged 15 hours at sea for any trip exceeding 3 hours. They should be allowed 15 hours of historical activity for these days.

Response: NMFS agrees and has clarified this point in this document.

Comment 40: Clarify whether NMFS will only use logbooks submitted within 15 days of the month following the fishing activity reflected in the logbook.

Response: NMFS will base its calculations of historical activity and economic harm on all logbooks submitted by July 15, 1999, provided that they contain sufficient information to be used for these calculations.

Comment 41: Fishermen should not be required to fill out so many forms and be subjected to so many prerequisites for receiving funds. This shows a lack of trust on the part of NMFS. NMFS is trying to stifle all the attempts of the fishermen to receive any aid.

Response: NMFS acknowledges that there are many requirements for receiving compensation under this program. Besides the programmatic requirements themselves, NMFS must also apply the disaster assistance provisions of section 308(d) of the IFA and the legal and regulatory requirements for receiving financial assistance from the Federal Government. NMFS is not trying to stifle attempts to receive aid, but these are standard procedures for disbursing Federal funds to ensure accountability for taxpayers' dollars.

Comment 42: The funds would be better spent on preserving wetlands and essential fish habitat and providing marine access for recreational anglers or the boating public. Or, some portion should be invested in an experimental gear program and on incentives for industry to develop and use technologies that minimize codfish bycatch.

Response: Congress specifically appropriated the funds for disaster assistance for persons or entities in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure. However, some of the research projects that will use vessels provided by fishermen under this program may focus on these areas.

Comment 43: Explain the selection of 10,000 lb (4535 kg) as the landings threshold for eligibility.

Response: The disaster assistance funds were appropriated to assist persons who have incurred losses from a commercial fishery failure in the multispecies fishery. There are many persons holding multispecies fishing permits who are not active in the fishery and, therefore, did not experience a commercial fishery failure. The threshold of 10,000 lb (4535 kg) is intended to ensure that the program targets active commercial multispecies fishermen for assistance.

Comment 44: If the permit holder decides to withdraw from the program, he or she should be required to send a certified letter to NMFS stating the intent to withdraw from the program. Any compensation should be repaid within 60 days of the date of this letter.

Response: NMFS agrees. Permit holders wishing to withdraw from the program will have to inform NMFS in writing by January 1, 2000, and will have 60 days from the date of receipt by NMFS of that letter to return all compensation received.

Comment 45: Clarify whether fishermen who fished in fisheries like monkfish in North Carolina during the appropriate months in 1999 would qualify.

Response: The calculation of economic harm subtracts only the multispecies DAS fished on a month-to-month basis from February through June 1999 (wherever that effort might have been) from the historical activity of the permit holder in the areas of the Gulf of Maine rolling closures during the appropriate months. If a permit holder has historical activity in the specified closed areas and moved to North Carolina in 1999 in order to continue fishing, that fishing effort would not be subtracted from historical activity unless multispecies DAS were used. Likewise, if a person fished in the same areas in 1999 as in 1998 but changed to another fishery that did not require the use of multispecies DAS, those days would not be subtracted from historical activity.

Comment 46: It is unclear how NMFS will certify that a fisherman normally fishes alone.

Response: NMFS does not intend to certify that a fisherman normally fishes alone. The application form asks fishermen to provide information on eligible crew members or to certify that the permit holder fishes alone. If evidence comes to light that a certification is false, NMFS will provide such evidence to the OIG. A false statement on the form could be grounds for possible punishment, including fine or imprisonment, under 18 U.S.C. 1001.

Changes From the Proposed Program

The following changes and clarifications have been made from the proposed program:

1. NMFS will allow the time period for completing the research obligation to be extended beyond the April 30, 2001, deadline by requesting an extension from the RA. This change has been made to allow more flexibility to the fishermen and researchers in scheduling research voyages at a mutually agreeable time and to allow more time, if necessary, for approved researchers to find funding and organize the project. NMFS retains the provision that permit holders must be informed that they are expected to provide their vessels for research by September 30, 2000. If a permit holder is asked to provide a

vessel for research, but the researchers cannot complete the project by April 30, 2001, and do not get the deadline extended, the permit holder's obligation to conduct the research ceases. Note that a request to extend the deadline for conducting research constitutes a collection of information as defined by the Paperwork Reduction Act (PRA). NMFS cannot grant extensions unless and until this collection of information is approved by the Office of Management and Budget (OMB). NMFS will seek approval of this aspect of the program in a timely manner.

2. Historical participation and economic harm for gillnetters will be based on the number of hours at sea assessed (a minimum of 15 hours per day for trips of greater than 3 hours), not on the number of hours the vessel was actually on the water.

3. If a permit holder chooses to withdraw from the program, he or she must inform NMFS of this decision in writing by January 1, 2000. The permit holder must then return the compensation received within 60 days of the receipt by NMFS of the decision to withdraw.

4. Income tax returns from 1998 are not required to be submitted to verify income level. However, NMFS has retained the requirement that assistance is limited to persons or entities that did not receive more than $75,000 from commercial fishing in 1998. Persons applying for this compensation must certify that they meet the income limit and other eligibility requirements.

5. "Research" DAS may be fulfilled in ways other than providing one's vessel for research. Projects proposing alternative activities in lieu of the research commitment may be submitted to NMFS for approval on a case-by-case basis by the RA.

6. If a permit holder is eligible for compensation based on DAS in both the 1998/1999 and the 1999/2000 fishing years and that person does not wish to be compensated for the full number of days for which he or she is eligible, the 1998/1999 DAS will be compensated first. Likewise, if NMFS reduces the number of DAS for which a person receives compensation (because the requested compensation exceeds the available funding) and a person qualifies for compensation based on unused DAS from both years, NMFS will compensate for DAS not used in 1998/1999 first and will only compensate for unused DAS in 1999/2000 if a person has no more 1998/1999 DAS eligible for compensation.

7. Permit holders receiving disaster assistance who are not asked to provide their vessel for research (or to engage in any other approved alternative activity) by September 30, 2000, will be required to submit only the last 3 years of income tax returns rather than 5 years of returns as proposed.

Definitions

Charter or party boat means any vessel that carries passengers for hire to engage in recreational fishing.

Commercial fishing or *fishing commercially* means fishing that is intended to result in, or results in, the barter, trade, transfer, or sale of fish.

Day(s)-at-Sea or *DAS* means the 24-hour periods of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess or land, or fishes for, possesses, or lands regulated species.

Dealer means any person who receives, for a commercial purpose (other than solely for transport on land), from the owner or operator of a vessel issued a valid multispecies permit, any species of fish whose harvest is managed by 50 CFR part 648.

Fishing year means, for the Northeast multispecies fishery, the period of time from May 1 through April 30 of the following year.

Historical activity means fishing activity during 1998 (or, in some cases, 1997) in the areas listed in this document that were closed in 1999, excluding the Western Gulf of Maine closed area.

Northeast multispecies, or *multispecies finfish*, or *multispecies* means the following species:

American plaice—*Hippoglossoides platessoides.*
Atlantic cod—*Gadus morhua.*
Haddock—*Melanogrammus aeglefinus.*
Ocean Pout—*Macrozoarces americanus.*
Pollock—*Pollachius virens.*
Redfish—*Sebastes fasciatus.*
Red hake—*Urophycis chuss.*
Silver hake (whiting)—*Merluccius bilinearis.*
White hake—*Urophycis tenuis.*
Windowpane flounder—*Scophthalmus aquosus.*
Winter flounder—*Pleuronectes americanus.*
Witch flounder—*Glyptocephalus cynoglossus.*
Yellowtail flounder—*Pleuronectes ferrugineus.*

Multispecies permit means a permit issued by NMFS to fish for, possess, or land multispecies finfish in or from the Exclusive Economic Zone.

Regulated species means the subset of NE multispecies that includes Atlantic cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, and white hake.

Eligibility

Permit holders are eligible to participate in this program if they hold a currently valid Federal multispecies permit and landed and sold at least 10,000 lb (4535 kg) of multispecies finfish to federally permitted dealers between May 1, 1997, and April 30, 1998. Verification of the sale will be based only on dealer weigh-out reports submitted to NMFS prior to April 1, 1999.

Party/Charter vessels are not eligible for this program, because they were not excluded from fishing in the closed areas.

Persons or entities with net annual revenues from commercial fishing in 1998 exceeding $75,000 (or $150,000 if filing a joint tax return) are not eligible for compensation. Persons or entities applying for disaster assistance will need to certify that their income does not exceed this threshold. The applicant's assertion of fishing income will be subject to audit, and if audited, the applicant may be required to provide documentation including, but not limited to, tax returns.

Any permit holder whose permit was sanctioned during the February through June 1999 closures cannot qualify for compensation from the period of the sanction.

Permit holders otherwise eligible for compensation who sold their vessels on or after February 1, 1999, will not be eligible to participate in this program. Likewise, persons purchasing a vessel on or after February 1, 1999, would not be considered to have historical activity and therefore are not eligible for compensation under this program, except that persons who owned a vessel that held a valid multispecies permit during the 1998–99 fishing year and who purchased a new vessel after February 1, 1999, will be eligible, based on the history of the vessel used during 1998.

Calculation of Historical Activity

A. NMFS will calculate the historical activity of each eligible vessel based on the number of DAS fished during 1998 in the following months and areas:

February—blocks 124–125
March—blocks 124–125
April—blocks 123–125, 130–133
May—blocks 129–133, 136–140
June—blocks 139–147, 152

Figure 1 shows the areas of these blocks.

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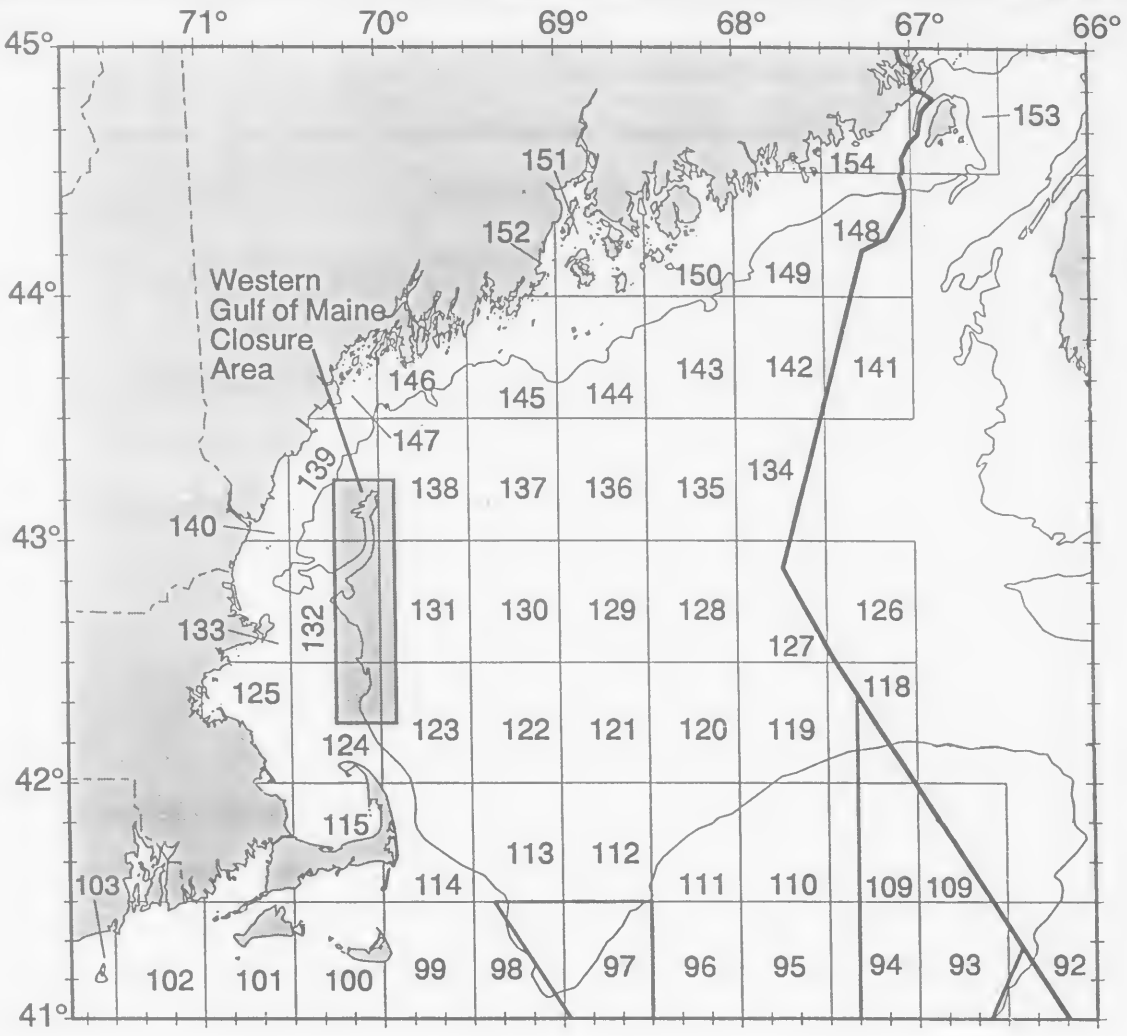

Figure 1. Gulf of Maine area closure reference blocks

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Note that, for the purposes of this program, fishing activity in the Western Gulf of Maine Closed Area will not be considered as historical activity since that area is closed for 3 years on a year-round basis.

B. There were some closures in March, May, and June of 1998. Therefore, if a vessel used no DAS in May or June 1998, NMFS will calculate the number of DAS fished by that vessel in the appropriate areas during the same months of 1997. Some areas were closed from March 1 through March 30, 1998, but not closed on March 31 of that year. Therefore, if a vessel used no DAS during March 1998 or fished only on March 31 of that year, NMFS will calculate the number of DAS fished by that vessel in the appropriate areas during the same months of 1997. NMFS will not use 1997 DAS if a permit holder used all his or her DAS in 1998.

C. Some persons may have been prevented from fishing in 1998 because of illness or problems with their vessels. NMFS assumes that vessel owners have chosen fishing as their primary activity by virtue of their investment in their boats. Therefore, if there are two consecutive calendar months from February through June 1998 for which a vessel had no record of any fishing activity (e.g., negative vessel trip reports were submitted for March and April 1998 and/or no landings were recorded by dealers), NMFS will assume that the vessel was prevented from fishing by circumstances beyond the control of the vessel owner. In this circumstance, NMFS will calculate the number of multispecies DAS during those same months in 1997. However, if the 2-month gap in 1998 fishing activity was due to a permit sanction, NMFS will not consider 1997 fishing activity. NMFS will not use 1997 DAS if a permit holder used all his or her DAS in 1998.

D. Calculation of multispecies DAS fished will be made to the nearest hour of fishing time and will then be rounded down to the nearest half day. A permit holder can receive no more compensation for economic harm than the level represented by the number of days of historical activity as calculated using this method.

E. For gillnetters, historical activity will be based on the number of DAS hours they were charged (minimum 15 hours for trips greater than 3 hours) rather than on the number of hours they were gone from the dock.

F. The number of multispecies DAS fished during a fishing year plus the number of unused multispecies DAS for which a vessel receives compensation in that year cannot exceed the total number of multispecies DAS allocated to that vessel for that year.

Documentation Used To Determine Historical Activity

A. For vessels greater than 30 ft (9.14 m), NMFS will use vessel call-in system reports and vessel trip reports received by NMFS prior to April 1, 1999, to determine whether a vessel fished in a 1999 closure area. If a trip was called in but no log report was submitted, or vice versa, the trip will not be included.

Some vessel trip reports have been submitted with insufficient information to determine whether the vessel fished in the closed areas, although this information is required. The permit holder will not get credit for historical activity on any trips for which the logbooks do not indicate where the gear was deployed.

B. For vessels 30 ft (9.14 m) or less, NMFS will base historical activity on vessel trip reports received by NMFS prior to April 1, 1999. (These vessels do not participate in the call-in system.) As with the larger vessels, the permit holder will not get credit for historical activity on any trips for which the logbooks do not indicate where the gear was deployed.

Documentation Used To Determine 1999 Activity

A. For vessels greater than 30 ft (9.14 m), NMFS will base activity on vessel call-in system reports.

B. For vessels 30 ft (9.14 m) or less, NMFS will base activity on vessel trip reports submitted by July 15, 1999. NMFS may compare dealer weigh-out reports and logbooks for May and June to confirm claims that no landings were made when no trip is reported.

Calculation of Economic Harm

A. For each month in which a vessel has historical activity, NMFS will tally the number of multispecies DAS fished in 1999. Economic harm will be calculated on a monthly basis as the historical DAS used that month minus the multispecies DAS used that month in 1999. For example, if a vessel has 10 DAS of historical activity in April 1998 and fished 5 DAS in April 1999, the permit holder and crew will be eligible for compensation for the equivalent of up to 5 DAS. If a vessel has 10 DAS of historical activity in April 1998 and fished 15 DAS outside the closed area in April 1999, the permit holder and crew will not be eligible for compensation for economic harm for that month.

If a vessel fished more days in a month during 1999 than it has historical activity in a closed area, the excess 1999 days will be subtracted from DAS for which the permit holder could receive compensation in another month. For example, if a permit holder has 10 days of historical activity from February 1998 and fished 15 days during February 1999, that person would have 5 days of excess 1999 fishing that would be subtracted from another month's compensation. If the same person had 10 days of historical activity from March 1998 and fished only 5 days during March 1999, the 5 days for which the person would otherwise have been eligible to receive compensation would be offset by the 5 days fished in excess of historical activity in February, and the person would not be eligible for compensation in March.

B. Compensation for economic harm will be at a rate of $1500 for each 24-hour DAS and $750 for each half DAS. This amount will be decreased to $900 per DAS if the permit holder does not designate crew to receive compensation. However, persons fishing alone may designate themselves as crew and receive the full compensation. (See Compensation for Crew.)

C. A DAS for which a permit holder receives compensation will be considered a DAS used. For compensation received based on economic harm during the 1998–1999 fishing year (i.e., during the February, March, and April 1999 closures), DAS for which a permit holder receives compensation cannot be carried over to the 1999–2000 fishing year. For compensation received based on economic harm during the 1999–2000 fishing year (i.e., during the May and June 1999 closures), DAS for which a permit holder receives compensation will be subtracted from the total allowable DAS for the year. For example, if a permit holder in the fleet DAS category is compensated for 10 DAS not used in June 1999, the total 1999–2000 DAS for the vessel he or she currently owns would be reduced from 88 to 78.

If a person is eligible to receive compensation for DAS not fished during both the 1998/1999 fishing year and the 1999/2000 fishing year, but elects to receive compensation for only some of those days, NMFS will compensate the 1998/1999 DAS first. For example, if a person is eligible to receive 10 days of compensation for lost fishing opportunities in 1998/1999 and 10 days of compensation for lost opportunities in 1999/2000, but chooses to commit his or her vessel for only 15 days of research, 10 days would be subtracted from the 1998/1999 DAS and only 5 would be subtracted from the 1999/2000 DAS allocation.

D. The number of DAS for which persons will receive compensation will be based on the total number of requests received by NMFS. No compensation will be paid until all requests are received. However, no applicant will be paid unless they satisfactorily complete a name check process required by the OIG. Because compensation cannot be released until the universe of applicants is known and because eligibility and unused DAS are calculated from official records held by NMFS and based on information required to be submitted to NMFS, there will be no appeals of NMFS determinations of eligibility or unused DAS.

E. If the total requests for compensation for economic harm exceed the funds available, the number of DAS for which each person is compensated will be reduced by the same proportion. If reduced, the proportional DAS for which each person is compensated will be rounded down to the nearest half day.

F. If the total requests for compensation for economic harm total less than the funds available, the excess funds will be used to defray costs in the following cooperative research program.

G. The agreement to participate in research in exchange for compensation through this program is binding. If a permit holder decides to withdraw from the program, he or she must inform NMFS of the decision to do so by January 1, 2000. Any compensation received through this program must be returned to NMFS within 60 days of receipt by NMFS of the letter informing of the decision to withdraw from the program. Returned funds may be used to defray costs in the cooperative research program.

Compensation for Crew Members

NMFS will ask permit holders to identify crew members who have also been harmed by the groundfish collapse and to specify in the application the vessel's share system. Crew members will be compensated a portion of the vessel's total compensation, based on the vessel's share system. An eligible crew member is expected to have worked for the permit holder for at least 6 out of the last 10 months. Each crew member identified by eligible permit holders will be required to certify that his or her income from commercial fishing does not exceed $75,000 ($150,000 if filing a joint tax return). Crew members will need to provide NMFS with bank information to allow direct deposit of disaster funds or to complete the requisite forms to receive a check. NMFS will pay each identified crew member based on the percentage share specified by the permit holder and will pay the remainder of the vessel's compensation to the permit holder. Permit holders who do not specify any crew members for compensation will be compensated at a reduced rate of $900 per DAS. However, a permit holder fishing alone may designate himself or herself as the captain of the vessel, thereby receiving the full $1500 per DAS discussed above.

Research Requirement

Permit holders that receive compensation under this program will be required to participate in research projects (if asked) for the number of days they were compensated. A permit holder will only be obligated to provide his or her vessel for research for the number of DAS for which compensation is received. Permit holders will not be required to use their allotted fishing DAS for this research. However, if a permit holder intends to land multispecies fish caught during a research day, the permit holder would have to use a DAS, which would also count as a research day. Use of the vessel includes the use of fixed vessel equipment such as navigation devices and hauling equipment.

The cost of personnel (captain and crew) required to operate the vessel during this research is to be borne by the permit holder. This is a condition of receiving compensation. All other direct operation costs are to be borne by the researcher. Direct costs include fuel, ice, food, and scientific equipment. Fishermen are not required to provide fishing gear for scientific research, although they may choose to do so. If eligible fishermen do not claim all the available disaster assistance funds, NMFS may provide some of the operation costs of research conducted under this program.

If a permit holder is not asked to provide his or her vessel for research by September 30, 2000, this obligation will cease. Instead, the permit holder will be required to submit economic information in the form of 1997, 1998, and 1999 tax returns and to complete an economic and social survey, provided that this collection of information is approved by OMB. If this information is not received by May 1, 2001, the permit holder's DAS for the 2001–2002 fishing year will be reduced by the number of DAS for which he/she was compensated under this program.

The research must be undertaken at a mutually agreed date before May 1, 2001. However, the RA may grant an extension of the time allowed to complete the research, upon request from the researcher and after consultation with the permit holder. NMFS cannot grant extensions of the completion date unless the collection of information required to assess a request is approved by OMB in compliance with the PRA. We will seek OMB approval in a timely manner.

If a vessel is requested for research by September 30, 2000, and the research is not conducted before May 1, 2001, because the fishing vessel is not available, then the vessel's allowed DAS for fishing year 2001–2002 will be reduced by the number of DAS for which it was committed for research, unless an extension is approved by the RA. If a vessel is requested for research but the researcher is unable to proceed with the project before May 1, 2001, and the deadline for completing the project is not extended, the permit holder's obligation to participate in this research ceases. In this case, the permit holder will receive credit for the DAS committed to this research project, even if the DAS are not used for research.

NMFS may authorize other uses for vessels and permit holders' time that can be substituted for the research commitment. A permit holder is not obligated to engage in any approved alternative projects, but may chose to do so (if asked) in lieu of the research requirement. The same deadlines and consequences apply to the alternative projects as to the research commitment. If the permit holder agrees to undertake an alternative project, the activity must be completed by May 1, 2001, unless extended by the RA, or the permit holder's DAS for the 2001–2002 fishing year will be reduced by the number of DAS for which he or she was compensated under this program. If the permit holder chooses not to engage in an alternative project and is not asked to engage in research by September 30, 2000, the permit holder will be obligated to provide 3 years of tax returns (subject to OMB approval of this collection of information).

If the vessel is sold while still under a research obligation, the commitment will transfer with the permit. Permits automatically transfer with the vessel upon sale, unless there is a written agreement stating otherwise. The research requirement will not be voided by the sale of a vessel, unless the permit holder permanently retires the vessel's multispecies permit.

If crew members are compensated as part of this program and are still with the vessel, they are expected to serve during the requested research period.

Permit holders will be expected to keep a record of the number of days they engaged in cooperative research.

Application Process

A. NMFS will determine who is eligible to participate in the program based on dealer weigh-out reports and will calculate the maximum level of direct assistance for which the permit holder is eligible.

B. NMFS will notify all multispecies permit holders, explaining the program and informing them whether they qualify to participate and, if so, the maximum amount of economic harm they can claim based on unused DAS. The letter to qualified permit holders will contain an application form that asks the permit holder to identify the number of eligible DAS for which the permit holder will seek compensation in exchange for a commitment to make his or her vessel available for research in the future, if requested. The permit holder will be asked to identify crew members that should share in the compensation and to inform NMFS of the percentage of available compensation each crew member should get, which is expected to be based on the usual share system of the vessel. Qualified permit holders will have 30 days from the date of mailing to respond to the invitation to participate. A date by which all responses must be postmarked will be included in the invitation to participate.

When applying for disaster assistance, permit holders will have to certify that their net income from commercial fishing in 1998 did not exceed the threshold of $75,000 (or $150,000 if filing a joint tax return). They will do so by signing the application form certifying the information they provide, including income information. Crew members will also have to certify that their net income from fishing in 1998 did not exceed the same limits. Certification is subject to possible punishment for false statements, under 18 U.S.C. 1001. The assertion of fishing income will be subject to audit and may require documentation including, but not limited to, tax returns.

C. NMFS will tally the amount of eligible compensation requested in all applications received by the deadline, and will conduct a name check of eligible persons. If the total eligible compensation requested is less than the funds available, NMFS will approve payment of the requested amounts (provided that the recipients pass the required name check) and will set aside the remainder to help defray vessel costs for conducting research. If the eligible compensation requested exceeds the funds available, NMFS will approve payment for each permit holder based on a prorated reduction in the number of DAS. The value of a DAS will remain the same, but fewer unused DAS will be compensated in this case. Partial DAS will be rounded downward to the nearest half DAS.

D. NMFS will report payments disbursed under this program to the IRS and will issue IRS Form 1099-G to each recipient of compensation for economic harm.

E. NMFS will accept only complete, signed applications postmarked by the deadline date for consideration under this program. NMFS is not required to screen applications for completeness before the deadline nor to allow applicants to correct any deficiencies on their application form after initial submission.

Classification

National Environmental Policy Act

NMFS requested comments on the potential impacts of this program on the human environment when it published the proposed program on June 11 in the **Federal Register**. No comments were received directed specifically to this point, although one person was of the opinion that the disaster assistance funds would be better spent in preserving wetland and habitat and in providing marine access for recreational anglers or the boating public. NMFS has conducted an Environmental Assessment of this program and has concluded that there are no significant impacts of this program on the human environment. A copy of the Environmental Assessment may be obtained from NMFS (see **ADDRESSES**).

Regulatory Flexibility Act

NMFS conducted an initial regulatory flexibility analysis (IRFA) for this action, which was included in the June 11 **Federal Register** notice. We received no comments concerning the IRFA. Therefore, the following constitutes the final regulatory flexibility analysis for this program.

This action is being taken as a result of concern about the economic impact of the declining groundfish stocks in the Gulf of Maine. The objective of the program is to compensate persons in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure.

This program is open to permit holders of a currently valid Northeast multispecies permit who landed 10,000 lb (4535 kg) of multispecies fish between May 1, 1997, and April 30, 1998, as recorded by dealer weigh-out reports. NMFS estimates that fewer than 500 permit holders qualify for compensation by having landed 10,000 lb (4535 kg) of multispecies fish and having documented historical activity in the areas closed in 1999. Assuming that, on average, each permit holder employed one other crew member, there might be 1000 persons able to participate in this program.

The reporting or record-keeping requirements for this program include an initial form for permit holders to indicate willingness to participate in the program. The form will also allow permit holders to identify crew members that should share in the compensation. The program also requires permit holders to provide the services of their vessels, if asked, for future research at a mutually agreed date and time, not to exceed May 1, 2001, unless an extension is requested and granted by NMFS. The permit holders will be expected to cover the costs of captain and crew needed to operate the vessel during this research, which is estimated to be $700 on average. The other costs of operating the vessel will be covered by the researcher or (in the event that not all disaster assistance funds are claimed by fishermen) may be covered by NMFS. Participation in the compensation program is voluntary, and persons are not expected to participate unless it is deemed economically beneficial to do so. Permit holders may also wish to keep a record of the number of days they have engaged in cooperative research. In addition, if a permit holder is not asked to engage in research or to perform an alternative, approved activity by September 30, 2000, the program calls for permit holders to submit 3 years of Federal income tax forms and to complete a survey of economic and social concerns instead, provided OMB approves this collection of information. Fishermen who have not kept copies of their tax returns will need to request copies from the IRS at a cost of $23.00 per return.

There are no Federal rules that duplicate, overlap, or conflict with the proposed action. Persons engaging in research aboard any vessel available through this program will have to comply with all relevant Federal regulations.

In providing assistance to alleviate the economic harm caused by the fishery decline, any significant economic impacts of this program are expected to be positive and are intentional. NMFS has, however, made modifications to the program that reduce the cost of compliance for the permit holders. We have: (a) Added a provision that the date by which research must be completed may be extended, thereby lowering the risk that a permit holder

may lose DAS during the 2001/2002 fishing year; (b) added the possibility of permit holders participating in approved alternatives to research, some of which may be less costly for the permit holder than providing a vessel for research; and (c) clarified that if a person wishes to receive compensation for only some of the DAS for which he or she is eligible, then NMFS will compensate unused 1998/1999 DAS first, and will subtract 1999/2000 DAS only if all the eligible DAS from last fishing year are used up. This provision allows a fisherman to receive compensation for DAS which have expired, but to choose to fish with this year's DAS instead of receiving $1500 per DAS compensation.

E.O. 12866

This program has been determined to be significant for the purposes of E.O. 12866.

PRA

This program contains a collection-of-information requirement subject to the PRA. The public reporting burden for this collection of information is estimated at 1.5 hours per response, to submit a form indicating willingness to participate in the program. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments were requested on this estimate when the proposed program was published in the **Federal Register**. NMFS received no comments on this estimate.

The collection of this information has been approved by OMB under control number 0648–0386.

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

Federal Policies and Procedures

Recipients of Federal assistance (permit holders and crew members who receive compensation through this program) are subject to all Federal laws and Federal and Department of Commerce (Commerce) policies, regulations, and procedures applicable to Federal financial assistance awards and must comply with general provisions that apply to all recipients under Commerce Federal assistance programs.

False Statements

A false statement on the application or any document submitted for consideration of financial assistance is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

Delinquent Federal Debts

No award of Federal funds shall be made if the would-be recipient has an outstanding delinquent Federal debt or fine until: (a) The delinquent account is paid in full; (b) a negotiated repayment schedule is established and at least one payment is received; or (c) other arrangements satisfactory to Commerce are made.

IRS Information

An applicant classified for tax purposes as an individual, partnership, proprietorship, corporation, or medical corporation is required to submit a taxpayer identification number (TIN) (a social security number, or an employer identification number as applicable, or a registered foreign organization number) on IRS Form W–9, "Payer's Request for Taxpayer Identification Number." Tax-exempt organizations and corporations (with the exception of medical corporations) are excluded from this requirement. Form W–9 shall be submitted to NOAA upon application for assistance. The TIN will be provided to the IRS by Commerce on Form 1099-G, "Statement for Recipients of Certain Government Payments."

Disclosure of a recipient's TIN is mandatory for Federal income tax reporting purposes under the authority of 26 U.S.C., sections 6011 and 6109(d), and 26 CFR, 301.6109–1. This is to ensure the accuracy of income computation by the IRS. This information will be used to identify an individual who is compensated with Commerce funds or paid interest under the Prompt Payment Act.

Name Check

Recipients will be subject to a name check review process. Name checks are intended to reveal if they or any key individuals associated with an application for award have been convicted of, or are presently facing, criminal charges, such as fraud, theft, perjury, or other matters that significantly reflect on their management, honesty, or financial integrity. In the name check process, Commerce performs a credit check on businesses and individuals. A criminal background check on an individual's name is performed by the Federal Bureau of Investigation. There is no charge to recipients for the name check.

Audits

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, section 1 *et seq.*, an audit of the award of assistance may be conducted at any time. The Inspector General of Commerce, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the recipient, whether written, printed, recorded, produced or reproduced by any mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts or other examinations as authorized by law. When the OIG requires an audit on a Commerce award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with Commerce, or any other Federal, state, or local audit entity.

Government-Wide Debarment and Suspension

Applicants must submit a completed Form CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants)" and the related section of the certification form prescribed here applies.

Dated: August 26, 1999.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–23221 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–22–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082699D]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will

convene a public meeting of the Reef Fish Stock Assessment Panel (RFSAP).

DATES: This meeting will begin at 9:00 a.m. on Monday, September 20, and conclude by 3:00 p.m. on Friday, September 24, 1999.

ADDRESSES: The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The RFSAP will convene to review stock assessments on the status of the red snapper stock and the red grouper stock in the Gulf of Mexico prepared by NMFS. The RFSAP will also evaluate new information on gag biology that had been presented to the Council during its development of the revised Regulatory Amendment to Set 1999 Gag/Black Grouper Management Measures. This new information includes reports prepared by Dr. Chris Koenig (Florida State University, Dr. Robert Chapman (South Carolina Department of Natural Resources) and other academic and state scientists, plus an evaluation and response to the analyses prepared for Southeastern Fisheries Association by Dr. Trevor Kenchington (Gadus Associates) and other independent scientists retained by Dr. Kenchington.

Based on its review of the red snapper and red grouper stock assessments, the RFSAP may recommend a range of allowable biological catch (ABC) for 2000, and may recommend management measures to achieve the ABC. In addition, the RFSAP will review the adequacy of recent biological information presented to the Council on gag that was used by the Council in its recent management decisions.

The RFSAP is composed of biologists who are trained in the specialized field of population dynamics. They advise the Council on the status of stocks and, when necessary, recommend a level of ABC needed to prevent overfishing or to effect a recovery of an overfished stock. They may also recommend catch restrictions needed to attain management goals.

The conclusions of the RFSAP will be reviewed by the Council's Standing and Special Reef Fish Scientific and Statistical Committee (SSC), Red Snapper Advisory Panel (RSAP), and Reef Fish Advisory Panel (RFAP) at meetings to be held in late October, 1999. Red grouper is a component of the shallow-water grouper complex (which consists of red grouper, gag, yellowfin grouper, black grouper, scamp, yellowmouth grouper, rock hind, and red hind). The Council may set a year 2000 total allowable catch (TAC) for the red grouper component of the shallow-water grouper complex and red snapper. The Council may also consider other management measures at its meeting in Lake Buena Vista, FL on November 8–11, 1999.

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

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by September 13, 1999.

Dated: August 31, 1999.

Richard W. Surdi,

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

[FR Doc. 99–23223 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083199C]

New England 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 New England Fishery Management Council (Council) is scheduling a public meeting of its Herring Advisory Panel in September, 1999. Recommendations from the advisors will be brought to the Herring Oversight Committee and full Council for formal consideration and action, if appropriate. This will be a joint meeting with the Herring Industry Advisory Panel of the Atlantic States Marine Fisheries Commission.

DATES: The meeting will held on Friday, September 17, 1999 at 9:30 a.m.

ADDRESSES: The meeting will be held at the Sheraton South Portland Hotel, 363 Maine Mall Road, South Portland, ME 04106, telephone: (207) 775–6161.

Council address: New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036

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

SUPPLEMENTARY INFORMATION: The advisors will elect a chair and vice-chair. They will also discuss various options for developing a controlled access program for the Atlantic herring fishery. The advisors may discuss other herring management issues, including spawning area closures and gear interactions.

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

Special Accommodations

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

Dated: August 31, 1999.

Richard W. Surdi,

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

[FR Doc. 99–23224 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082599D]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Council (Council) will hold a meeting of its Coral Reef Ecosystem Plan Team (Plan Team) and its Ecosystem and Habitat Advisory Panel (Advisory Panel) in Honolulu, HI. The meeting will also include a public hearing on the management alternatives being considered for implementation in the

Coral Reef Ecosystem Fishery Management Plan (FMP), and being analyzed in an associated Environmental Impact Statement (EIS).

DATES: Both meetings will be held on September 15–17, 1999, from 8:30 a.m. to 5:00 p.m. each day. Written comments, on the range of alternatives to be analyzed in the EIS, will be accepted on or before September 10, 1999, which marks the end of the public scoping period under the National Environmental Policy Act (as per previous notice). The public hearing on the management alternatives will be held on September 17, 1999, from 2:00 to 5:00 p.m.

ADDRESSES: The meetings will be held at the Council office conference rooms, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808–522–8220).

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The Plan Team and Advisory Panel will discuss and make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

8:30 a.m. Wednesday, September 15, 1999

(Contractors and staff will present the following topics from the latest draft of the Coral Reef Ecosystem FMP to both the Plan Team and Advisory Panel, meeting jointly on this day:)

1. Introduction to the FMP

A. Ecosystem management
B. Geographic context
C. Scope of management

2. Description of the fisheries

A. History of exploitation
B. Fishing methods and current use patterns

3. Description of threats/management issues

A. Inadequate resource base
B. Lack of effective enforcement
C. Lack of coordinated, comprehensive management

4. Management objectives and programs

A. Proposed (and rejected) management alternatives (and ecological/biological, social/economic, and cultural impacts)
(1) Fishing permit
(2) Marine protected areas
(3) Restrictions of gear and methods
(4) Framework provisions
B. Proposed non-regulatory measures

5. Description of the resource ecosystem

A. Fishery management unit (FMU)
B. Biology
C. Present condition of components of the FMU
D. Probable condition of FMU components in the future

6. Proposed designations for Essential Fish Habitat (EFH)

A. Description of EFH and EFH designations for management unit species/taxa
B. Habitat areas of particular concern
C. Fishing and non-fishing impacts to EFH
D. Cumulative impacts and research needs

7. Sustainable Fisheries Act determinations

A. Description of commercial, recreational and charter fishing sectors
B. Impacts on fishing communities
C. Overfishing definitions and criteria
D. Bycatch

8. Relationship to existing laws and policies

A. Other fishery management plans
B. Treaties or international agreements
C. Federal laws and policies
D. State, local and other applicable laws and policies

9. Future needs

A. Research, monitoring and assessment
B. Development of fishery resources

8:30 a.m. Thursday, September 16, 1999

10. Plan Team and Advisory Panel meet separately to discuss and make recommendations on the topics presented on the first day

8:30 a.m. Friday, September 17, 1999

11. Plan Team and Advisory Panel continue to discuss and develop independent recommendations on the above topics

A. Summary of Plan Team recommendations to Council on draft FMP
B. Summary of Advisory Panel recommendations to Council on draft FMP

12. Other business

A. Scheduling of next Plan Team meeting
B. Scheduling of next Advisory Panel meeting

2:00 p.m.

13. Public hearing on management alternatives (Plan Team and Advisory Panel meeting jointly).

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: August 31, 1999.

Richard W. Surdi,

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

[FR Doc. 99–23225 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 082699F]

Marine Mammals; Photography Permit (File No. 867–1525)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Moana Productions, Inc., 311 Portlock Road, Honolulu, HI 96825, has applied in due form for a permit to take several species of non-threatened, non-endangered small cetaceans for purposes of commercial photography.

DATES: Written comments must be received on or before October 7, 1999.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Bin C15700, Building 1, Seattle, WA 98115–0070 (206/526–6150).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

FOR FURTHER INFORMATION CONTACT: Trevor Spradlin or Jeannie Drevenak at (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of § 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild. NMFS is currently working on proposed regulations to implement this provision. However, in the meantime, NMFS has received and is processing this request as a "pilot" application for Level B Harassment of non-listed and non-depleted marine mammals for photographic purposes.

The applicant seeks authorization to photograph the following marine mammals in Pacific waters off the coasts of California, Oregon and Washington: California sea lions (*Zalophus californianus*); harbor seals (*Phoca vitulina*); Northern elephant seals (*Mirounga angustirostris*); harbor porpoises (*Phocoena phocoena*); Dall's porpoises (*Phocoenides dalli*); Pacific white-sided dolphins (*Lagenorhychus obliquidens*); Risso's dolphins (*Grampus griseus*); bottlenose dolphins (*Tursiops truncatus*), striped dolphins (*Stenella coeruleoalba*); common dolphins (*Delphinus sp.*); short-finned pilot whales (*Globicephala macrorhynchus*); northern right whale dolhins (*Lissodelphis borealis*); Baird's beaked whales (*Berardius bairdii*); Mesoplodon beaked whales (*Mesoplodon sp.*); Cuvier's beaked whales (*Ziphius cavirostris*); Bryde's whales (*Balaenoptera edeni*); minke whales (*Balaenoptera acutorostrata*); gray whales (*Eschrichtius robustus*); and killer whales (*Orcinus orca*). The applicant proposes to initiate this work upon receipt of the permit.

Dated: August 30, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–23222 Filed 9–3–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 3 p.m., Wednesday, September 15, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–23268 Filed 9–2–99; 10:14 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2 p.m., Tuesday, September 28, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–23269 Filed 9–2–99; 10:14 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

TIME AND DATE: 2 p.m., Wednesday, September 29, 1999.

PLACE: 1155 21st St., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–23270 Filed 9–2–99; 10:14 am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 8, 1999.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this

collection on the respondents, including through the use of information technology.

Dated: August 31, 1999.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Extension.
Title: Guaranty Agency Quarterly/Annual Report.
Frequency: Monthly.
Affected Public: Not-for-profit institutions; State; local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Burden: Responses: 36 Burden Hours: 9,000.
Abstract: The Guaranty Agency Quarterly/Annual Report is submitted by 36 agencies operating a student loan insurance program under agreement with the Department of Education. These reports are used to evaluate agency operations, make payments to agencies as authorized by law, and to make reports to Congress. Form 1130 has been significantly altered due to the results of Congressional Reauthorization.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or by e-mail at joe__schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: New.
Title: Guaranty Agency Financial Report.
Frequency: Monthly.
Affected Public: Businesses or other for-profit; State; local or Tribal Gov't, SEAs or LEAs.
Reporting and Recordkeeping Burden: Responses: 36; Burden Hours: 33,660.
Abstract: The Guaranty Agency Financial Report will be used to request payments from and make payments to the Department of Education under the Federal Family Education Loan (FFEL) program authorized by Title IV, Part B of the Higher Education Act (HEA) of 1965, as amended. The report will also be used to monitor the agency's financial activities, including activities concerning its federal fund, operating fund and the agency's restricted account. Recent negotiated rulemaking sessions had a major impact on the development of this form because of significant changes to guaranty agency reporting requirements, and reporting on two new funds, the Federal Fund and Operating Fund. Guaranty agency representatives spent three full days in Washington, DC working with ED on the development of this form 2000.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Joseph Schubart at 202–708–9266 or by e-mail at joe__schubart@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Vocational and Adult Education

Type of Review: Reinstatement.
Title: Adult Education Annual Performance and Financial Reports.
Frequency: Annually.
Affected Public: State, local or Tribal Gov't, SEAs and LEAs.
Reporting and Recordkeeping Hour Burden: Responses: 59; Burden Hours: 6,490.
Abstract: The information contained in the Annual Performance Reports for Adult Education is needed to monitor the performance of the activities and services funded under the Adult Education and Family Literacy Act of 1998, Report to Congress on the Levels of Performance Achieved on the core indicators of performance, provide necessary outcome information to meet the Office of Vocational and Adult Education's (OVAE's) Government Performance and Results Act (GPRA) goals for adult education, and provide documentation for incentive awards under Title V of the Workforce Investment Act. The respondents include eligible agencies in 59 states and insular areas.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *OCIO__IMG__Issues@ed.gov* or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Sheila Carey at 202–708–6287or electronically at her internet address Sheila__Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–23103 Filed 9–3–99; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 7, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed

information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 31, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Evaluation of the Magnet Schools Assistance Program.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden: Responses: 2,387; Burden Hours: 1,517.

Abstract: This package is to request clearance for an evaluation of the Magnet Schools Assistance Program (MSAP). The purpose of the evaluation is to provide information to ED and Congress about the success of the MSAP in meeting its statutory goals. The evaluation is using information reported in MSAP applications and performance indicators and gathering new data from all 57 MSAP projects funded in 1998. A particular emphasis of the evaluation is the projects' progress in improving student achievement and achieving desegregation.

Written comments and requests for copies of this proposed information collection request should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the Internet address *OCIO IMG Issues@ed.gov* or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Jacqueline Montague at 202–708–5359 or electronically at her internet address Jackie____Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–23104 Filed 9–3–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

DATES: Comments must be filed on or before October 7, 1999. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Grace Sutherland, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mrs. Sutherland may be telephoned at (202) 426–1068, FAX (202) 426–1083, or e-mail at Grace.Sutherland@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. EIA–871A/F, "Commercial Buildings Energy Consumption Survey" (CBECS).

2. Energy Information Administration; OMB No. 1905–0145; Reinstatement, with change, of a previously approved collection for which approval has expired; Voluntary for commercial buildings and mandatory for energy suppliers.

3. EIA–871A/F will be used to collect data on energy consumption by commercial buildings and the characteristics of these buildings. The surveys fulfill planning, analyses and decision-making needs of DOE, other Federal agencies, State governments, and the private sector. Respondents are owners/managers of selected commercial buildings and their energy suppliers.

4. Business or other for-profit.

5. 2,666 hours (1.3 hours per response X .33 responses per year X 6,200 respondents) (The 2,666 hour burden is being prorated over a three-year requested approval period.).

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., August 30, 1999.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 99–23166 Filed 9–3–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. 99–3435–000]

Arizona Public Service Company; Notice of Convening Session

August 31, 1999.

On June 30, 1999, Arizona Public Service Company (Arizona Public Service) filed an unexecuted network service transmission agreement and an unexecuted network operating agreement under Arizona Public Service's open access transmission tariff. On August 20, 1999, the

Commission accepted and suspended the agreements under the proposed tariff with an effective date of June 1, 1999, subject to refund. The Commission set the agreements for hearing but suspended the commencement of the hearing for 90 days to allow for settlement discussion. The Commission also directed the Dispute Resolution Service to convene a meeting of the Parties within 30 days of issuance of the Commission order, to arrange a process that will foster negotiation and agreement between Arizona Public Service and the Navajo Tribal Utility Authority.

The Commission's Dispute Resolution Service will conduct a convening session on September 7, 1999, commencing at 2:30 p.m., in Conference Room 19A, at the Arizona Public Service's office, 400 North Fifth Street, Two Arizona Center, Phoenix, Arizona. The convening session will cover what processes can be taken to reach a consensual agreement, including whether to use an alternative dispute resolution process and/or an appropriate third party neutral.

All parties are invited to attend. If a party has any questions, please call Richard Miles, the Director of the Office of the Dispute Resolution Service. His telephone number is 202–208–0702 or 1–877–FERC ADR. His E-mail address is richard.miles@ferc.fed.us.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23098 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–4272–000]

Central Hudson Gas and Electric Corporation; Notice of Filing

August 31, 1999.

Take notice that on August 23, 1999, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Wabash Valley Power Association, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before September 10, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23171 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–4271–000]

Central Hudson Gas and Electric Corporation; Notice of Filing

August 31, 1999.

Take notice that on August 23, 1999, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and American Electric Power Service Corporation. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000.

CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR Section 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 385.214). All such motions and protests should be filed on or before September 10, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion in intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23173 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–17–000]

KN Interstate Gas Transmission Co.; Notice of Tariff Filing

August 31, 1999.

Take notice that on August 24, 1999, KN Interstate Gas Transmission Co. (KNI) tendered for filing the Tariff Sheets listed below with a proposed effective date of September 23, 1999.

Third Revised Volume No. 1–B

Fourth Revised Sheet No. 55

First Revised Volume No. 1–D

Fourth Revised Sheet No. 48

This filing is made in order to update the tariff sheets that reflect Order Nos. 497, et seq. compliance information. KNI states that copies of this filing have been served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to be heard or to protest said failing said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission's and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for instance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23096 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–18–000]

KN Wattenberg Transmission LLC; Notice of Tariff Filing

August 31, 1999.

Take notice that on August 24, 1999, KN Wattenberg Transmission LLC (KNW) tendered for filing the Tariff Sheet listed below with a proposed effective date of September 23, 1999.

First Revised Volume No. 1

First Revised Sheet No. 63

This filing is made in order to update the tariff sheets that reflect Orders Nos. 497, et seq. compliance information. KNW states that copies of this filing have been served upon all affected firm customers of KNW and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or 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. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23095 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–4166–000]

Mid-Continent Area Power Pool; Notice of Filing

August 31, 1999.

Take notice that on August 20, 1999, the Mid-Continent Area Power Pool (MAPP), on behalf of its members that are subject to Commission jurisdiction as public utilities under Section 201(e) of the Federal Power Act, filed amendments to various sections of the MAPP Restated Agreement.

MAPP requests an effective date of that is 60 days from date of this filing.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 385.214). All such motions and protests should be filed on or before September 10, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23172 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–482–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

August 31, 1999.

Take notice that on August 25, 1999, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the revised tariff sheets listed on Appendix A attached to the filing as part of its FERC Gas Tariff, First Revised Volume No. 1 to be effective October 18, 1999.

Panhandle states that the purpose of this filing, made in accordance with the provisions of section 154.204 of the Commission's Regulations, is to reflect a change in the name of Panhandle's electronic bulletin board to Messenger and a new Web Site address to access Messenger. As necessitated by the sale of Panhandle by Duke Energy Corporation to CMS Energy Corporation earlier this year, Panhandle is converting the current LINK System, which is shared by the Duke Energy pipelines, to a new proprietary electronic bulletin board system, Messenger, on October 18, 1999.

Panhandle states that a copy of this filing is available for public inspection during regular business hours at Panhandle's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or 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. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/

rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23091 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–441–007]

Reliant Energy Etiwanda, LLC; Notice of Filing

August 31, 1999.

Take notice that on August 19,1999, Reliant Energy Etiwanda, LLC (Reliant Etiwanda), tendered for filing a refund report as required by the Stipulation and Agreement filed in the above-captioned proceedings on April 2, 1999 and approved by the Commission in an Order issued May 28, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, 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 385.214). All such motions and protests should be filed on or before September 10, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet a http://www.ferc.fed.us/online/rims.htm (call 202–208–222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23170 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–044]

Reliant Energy Gas Transmission Company; Notice of Proposed Changes in Ferc Gas Tariff

August 31, 1999.

Take notice that on August 25, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet to be effective August 26, 1999:

First Revised Sheet No. 8G

REGT states that the purpose of this filing is to reflect the expiration of a negotiated rate contract.

Any person desiring to protest this 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 rules and regulations. All such protests must be filed as provided in section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23092 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–569–001]

Texas Eastern Transmission Corporation, National Fuel Gas Supply Corporation; Notice of Amendment

August 31, 1999.

Take notice that on August 26, 1999, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77251–1642, filed in Docket No. CP99–569–001 to amend the pending Joint Abbreviated Application of Texas Eastern and National Fuel Gas Supply Corporation (National Fuel), filed on July 25, 1999 in Docket No. CP99–569–000. The amendment is on file with the Commission and open to public inspection and may be viewed on the web at http://www.ferc.us/online/rims.htm (call 202–208–2222 for assistance).

Texas Eastern states that the purpose of the amendment is to reflect an agreement reached between Texas Eastern and ProGas USA, Inc. (ProGas) pursuant to which Texas Eastern would provide ProGas with interruptible transportation service under Texas Eastern's Rate Schedule IT–1 with scheduling priority, in Texas Eastern's Market Zone M–3 only, equal to secondary firm service in order to replicate the secondary service rights ProGas currently enjoys under ProGas' current Rate Schedule FT–1 Service Agreement with Texas Eastern.

Any questions regarding this amendment should be directed to S.E. Tillman, Director of Regulatory Affairs, Texas Eastern Transmission Corporation, P.O. Box 1642, Houston, Texas 77251–1642 at (713) 627–5113 (Voice), or (713) 627–5947 (FAX).

Any person desiring to be heard or making any protest with reference to said amendment should on or before September 21, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. Any person who filed to intervene in Docket No. CP99–569–000 need not file again.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the NGA and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is 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 Texas Eastern or National Fuel to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23097 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–483–000]

Trunkline Gas Company

Notice of Proposed Changes in FERC Gas Tariff

August 31, 1999.

Take notice that on August 25, 1999, Trunkline Gas Company (Trunkline) tendered for filing the revised tariff sheets listed on Appendix A attached to the filing as part of its FERC Gas Tariff, First Revised Volume No. 1 to be effective October 18, 1999.

Trunkline states that the purpose of this filing, made in accordance with the provisions of Section 154.204 of the Commission's Regulations, is to reflect a change in the name of Trunkline's electronic bulletin board to Messenger and a new Web Site address to access Messenger. As necessitated by the sale of Trunkline by Duke Energy Corporation to CMS Energy Corporation earlier this year, Trunkline is converting the current LINK System, which is shared by the Duke Energy pipelines, to a new proprietary electronic bulletin board system, Messenger, on October 18, 1999.

Trunkline states that a copy of this filing is available for public inspection during regular business hours at Trunkline's office at 5444 Westheimer Road, Houston, Texas 77056–5306. In addition, copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or 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. 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23090 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory. Commission

Notice of Temporary Variance Request and Soliciting Comments, Motions To Intervene, and Protests

August 31, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request for Continued Temporary Variance.

b. *Project No.:* 2210–032.

c. *Date filed:* August 23, 1999.

d. *Applicant:* Appalachian Power Company.

e. *Name of Project:* Smith Mountain Project.

f. *Location:* On the Roanoke River, Bedford, Franklin, Campbell, Pittsylvania, and Roanoke Counties, Virginia. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Frank M. Simms, American Electric Power, 1 Riverside Plaza, Columbus, OH 43215–2373, (614) 223–2918.

i. *FERC Contact:* Robert Fletcher, robert.fletcher@ferc.fed.us, 202–219–1206.

j. *Deadline for filing comments, motions to intervene and protest:* 14 days from the issuance date of this notice. Please include the project number (2210–032) on any comments or motions filed. All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

k. *Description of Applicant:* On June 17, 1999, the Commission approved an emergency 45-day variance to reduce the minimum flow requirements of article 29 from 650 cubic feet per second (cfs) to 400 cfs during the drought conditions occurring at the Smith Mountain Project. On July 22, 1999, another variance request was granted through September 30, 1999. The licensee continues to consult with the various resource agencies and stakeholders upstream and downstream of the project. In anticipation of no immediate relief to the low inflow situation at the Smith Mountain Project and the distinct possibility that relief will not be forthcoming, the licensee is requesting to continue the temporary variance to license article 29 through March 30, 2000.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23093 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

August 31, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License.

b. *Project No:* 1218–015.

c. *Date Filed:* August 17, 1999.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* Flint River Hydroelectric Project.

f. *Location:* The project is located on the Flint River in Lee and Dougherty Counties, Georgia. The project does not utilize any federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Mr. Mike Phillips, Georgia Power Company, Bin 10151, 241 Ralph McGill Boulevard, NE, Atlanta, GA 30308–3374, (404) 506–2392.

i. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address: james.hunter@ferc.fed.us.

j. *Deadline for filing comments and or motions:* September 23, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the project number (P–1218–015) on any comments or motions filed.

k. *Description of Project:* The Applicant requests amendment of the existing license for the Flint River Project, to accelerate the termination date by two years, to coincide with the issuance date of the new license for the project.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at http//www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–23094 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL99–4–000]

Public Access to Information; Notice of Y2K Docket Number Format

August 31, 1999.

Take notice that the Federal Energy Regulatory Commission (Commission) is clarifying its docketing procedures for new dockets created in Fiscal Year 2000, which begins October 1, 1999.

The Commission will issue documents with the year component of the docket number expressed as a 2-digit number. The year 2000 will appear as "00" in all FY2000 docket numbers that contain a fiscal year component. For example, the first docket number assigned to a pipeline certificate application on October 1, 1999, will be CP00–1–000. Similarly, for an electric rate filing, the first docket number will be ER00–1–000. Some filings (including those in TM dockets) submitted before October 1, 1999, in order to become effective on or after the date have already received the "00" docket number. The docketing format for hydropower licensing project ("P" docket prefix) is not affected since it does not contain a year component.

Retaining the current display format for docket numbers will minimize the impact of Y2K transition issues for the Commission, regulated entities, and others by reducing or eliminating the need for change to existing systems.

David P. Boergers,

Secretary.

[FR Doc. 99–23089 Filed 9–3–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6433–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Safe Drinking Water Act State Revolving Fund Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB):

Safe Drinking Water Act State Revolving Fund Program; EPA ICR No. 1803.02; OMB No. 2040–0185; expiration date June 30, 2000. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before November 8, 1999.

ADDRESSES: A copy of the ICR may be requested from and comments may be mailed to Vinh Nguyen, Office of Ground Water and Drinking Water (4606), U.S. EPA, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Vinh Nguyen (202) 260–0715; fax (202) 401–2345; E-mail at nguyen.vinh@epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are the fifty states, Puerto Rico, and the recipients of assistance in each of these jurisdictions.

Title: Safe Drinking Water Act State Revolving Fund Program; OMB No. 2040–0185; EPA ICR No. 1803.02; expiration date June 30, 1999.

Abstract: The Safe Drinking Water Act (SDWA) Amendments of 1996 (Pub. L. 104–182) authorize the creation of Drinking Water State Revolving Fund (DWSRF) programs in each state and Puerto Rico to assist public water systems to finance the costs of infrastructure needed to achieve or maintain compliance with SDWA requirements and to protect public health. Section 1452 authorizes the Administrator of the U.S. Environmental Protection Agency (EPA) to award capitalization grants to the states and Puerto Rico which, in turn, provide low-cost loans and other types of assistance to eligible drinking water systems. States can also reserve a portion of their grants to conduct various set-aside activities.

The information collection activities will occur primarily at the program level through the: (1) Capitalization Grant Application and Agreement/State Intended Use Plan; (2) Biennial Report; (3) Annual Audit; and (4) Assistance Application Review.

(1) Capitalization Grant Application and Agreement / State Intended Use Plan: The State must prepare a Capitalization Grant Application that includes an Intended Use Plan (IUP) outlining in detail how it will use all the funds covered by the capitalization grant. States may, as an alternative, develop the IUP in a two part process with one part identifying the distribution and uses of the funds among the various set-asides in the DWSRF program and the other part dealing with project assistance from the Fund.

(2) Biennial Report: The State must agree to complete and submit a Biennial Report on the uses of the capitalization grant. The scope of the report must cover assistance provided by the DWSRF Fund and all other set-aside activities included under the Capitalization Grant Agreement. States which jointly administer DWSRF and Clean Water State Revolving Fund (CWSRF) programs, in accordance with section 1452(g)(1), may submit reports (according to the schedule specified for each program) which cover both programs.

(3) Annual Audit: A State must, at minimum, comply with the provisions of the Single Audit Act Amendments of 1996. Best management practices suggest, and EPA recommends, that a state conduct an annual independent audit of its DWSRF program. The scope of the report must cover the DWSRF Fund and all other set-aside activities included in the Capitalization Grant Agreement. States which jointly administer DWSRF and CWSRF programs, in accordance with section 1452(g)(1), may submit audits which cover both programs but which report financial information for each program separately.

(4) Assistance Application Review: Local applicants seeking financial assistance must prepare DWSRF loan applications. States then review completed loan applications and verify that proposed projects will comply with applicable federal and state requirements.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement

(1) Capitalization Grant Application and Agreement/State Intended Use Plan

2000:
51 States × 400 Hours = 20,400 Burden Hours
2001:
51 States × 400 Hours = 20,400 Burden Hours
2002:
51 States × 400 Hours = 20,400 Burden Hours

(2) Biennial Report

2000:
51 States × 275 Hours = 14,025 Burden Hours
2002:
51 States × 275 Hours = 14,025 Burden Hours

(3) Annual Audit

2000:
51 States × 80 Hours = 4,080 Burden Hours
2001:
51 States × 80 Hours = 4,080 Burden Hours
2002:
51 States × 80 Hours = 4,080 Burden Hours

(4) Loan Application Review

2000:
51 States × 20 Applications × 40 Hours = 40,800 Burden Hours
2001:
51 States × 21 Applications × 40 Hours = 42,840 Burden Hours
2002:
51 States × 22 Applications × 40 Hours = 44,880 Burden Hours

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources;

complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: August 30, 1999.

Cynthia C. Dougherty,

Director, Office of Ground Water & Drinking Water.

[FR Doc. 99–23193 Filed 9–3–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00610A; FRL–6099–7]

Pesticides: Science Policy Issues Related to the Food Quality Protection Act; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; extension of comment period.

SUMMARY: On July 8, 1999, EPA issued a notice of availability for four draft science policy papers entitled "Toxicology Data Requirements for Assessing Risks of Pesticide Exposure to Children's Health," "Exposure Data Requirement for Assessing Risks of Pesticide Exposure to Children," "The Office of Pesticide Programs' Policy on Determination of the Appropriate FQPA Safety Factor(s) for Use in the Tolerance-Setting Process," and "Standard Operating Procedures (SOP) for Determining the Appropriate FQPA Safety Factor(s) for Use in Tolerance Assessment." The comment period would have ended September 7, 1999. Due to the length and complexity of these papers, and the importance of this issue to the protection of the health of children, EPA has decided to extend the comment period by 30 days.

DATES: Comments, identified by docket control number OPP–00610, must be received on or before October 7, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00610 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Penelope A. Fenner-Crisp, Environmental Protection Agency (7505C), 401 M St., SW., Washington, DC 20460; telephone number: (703) 605–0654; fax: (703) 305–4776; e-mail: fenner-crisp.penelope@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture or formulate pesticides. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affectedentities
PesticideProducers	32532	Pesticide manufacturers Pesticide formulators

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action affects certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the "FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the " **Federal Register** —Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

You may also obtain electronic copies of this document and the four draft science policy papers from the Office of Pesticide Programs Home Page at http://www.epa.gov/pesticides/. On the Office of Pesticide Programs Home Page select "TRAC" and then look up the entry for this document.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–00610. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

C. How and to Whom Do I Submit Comments?

As described in Unit I.C. of the June 8, 1999, **Federal Register** notice (64 FR 37001) (FRL–6088–7), you may submit comments through the mail, in person, or electronically. Please follow the instructions that are provided in the June 8, 1999, notice. Do not submit any information electronically that you consider to be CBI. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00610 in the subject line on the first page of your response.

II. What Action is the Agency Taking?

The Agency has issued the four documents listed in the "SUMMARY" and solicited comments on them. The background on these documents can be found in the previous **Federal Register** notice published on July 8, 1999 (64 FR 37001). A time extension of 30 days is being provided such that the comment period will now end on October 7, 1999.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, pesticides and pests.

Dated: August 30, 1999.

Susan H. Wayland,

Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–23197 Filed 9–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–CO/A; FRL–6099–1]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Colorado Interim Approval of Lead-Based Paint Activities Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; interim approval of the Colorado TSCA Section 402/404 Lead-Based Paint Accreditation and Certification Program.

SUMMARY: On December 21, 1998, the State of Colorado submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). Colorado provided a self-certification letter stating that its program is at least as protective of human health and the environment as the Federal program and it has the legal authority and ability to implement the appropriate elements necessary to receive interim enforcement approval. On April 13, 1999, EPA published in the **Federal Register** (64 FR 18017) (FRL–6060–6) a notice announcing receipt of the State's application and requesting public comment and/or opportunity for a public hearing on the State's application. The Agency did not receive any comments regarding any aspect of Colorado's program and/or application. Today's notice announces the approval of Colorado's application, and the authorization of the Colorado Department of Public Health and Environment, Air Pollution Control Division's Lead-Based Paint Activities Program to apply in the State of Colorado effective December 21, 1998, in lieu of the corresponding Federal program under section 402 of TSCA. This authorization provides interim approval for the compliance and enforcement program portion of Colorado's lead-based paint program. All elements for final compliance and enforcement program approval must be fully implemented no later than December 21, 2001.

DATES: Based upon the State's self-certification, Lead-Based Paint Activities Program authorization was granted to the State of Colorado effective on December 21, 1998. Interim approval for the compliance and enforcement portion of the program will expire on December 21, 2001.

FOR FURTHER INFORMATION CONTACT: Dave Combs, Regional Toxics Team Leader, Environmental Protection Agency, Region VIII, 999 18th St., Suite 500, 8P-P3-T, Denver, CO 80202-2466. Telephone: 303-312-6021; e-mail address:combs.dave@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV (15 U.S.C. 2681-92), entitled *Lead Exposure Reduction.*

Section 402 of TSCA (15 U.S.C. 2682) authorizes and directs EPA to promulgate final regulations governing lead-based paint activities in target housing, public and commercial buildings, bridges and other structures. Under section 404 (15 U.S.C. 2684), a State may seek authorization from EPA to administer and enforce its own lead-based paint activities program.

On August 29, 1996 (61 FR 45777) (FRL-5389-9), EPA promulgated final TSCA section 402/404 regulations (40 CFR part 745) governing lead-based paint activities in target housing and child-occupied facilities. States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. To receive EPA approval, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program, and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684(b)). EPA's regulations (40 CFR part 745, Subpart Q) provide the detailed requirements a State or Tribal program must meet in order to obtain EPA approval.

Under these regulations with regard to interim compliance and enforcement approval (40 CFR 745.327(a)(1)), a State must demonstrate that it has the legal authority and ability to immediately implement certain elements, including legal authority for accrediting training providers, certification of individuals, work practice standards and pre-renovation notification, authority to enter, and flexible remedies. In order to receive final approval, the state must be able to immediately implement the remaining performance elements, including training, compliance assistance, sampling techniques, tracking tips and complaints, targeting inspections, follow up to inspection reports and compliance monitoring and enforcement.

The State of Colorado's environmental audit privilege and penalty immunity statute, sometimes known as S.B. 94-139 (codified at sections 13-25-126.5, 13-90-107(1)(j), and 25-1-114-5, C.R.S.) may impair the State's ability to fully administer and enforce the lead-based paint program. Interim compliance and enforcement approval will provide the State the opportunity to address problems and issues associated with the State's environmental audit privilege and penalty immunity law as well as the development and implementation of required performance elements under 40 CFR part 745.327(c). EPA will work with the State during this interim approval period to remedy any deficiencies in its laws or implementation of the required performance elements. Interim approval of the compliance and enforcement program portion of the State's program may be granted only once. EPA's interim approval of the compliance and enforcement program portion of the State's program expires on December 21, 2001.

If the State does not meet the requirements for final approval of its compliance and enforcement program by December 21, 2001, EPA may be compelled to initiate the process to withdraw Colorado's interim authorization pursuant to 40 CFR part 745.324(i). If Colorado has made modifications to it's Audit Law necessary to meet the minimum requirements of its Federally authorized environmental programs, this law will no longer present a barrier to final approval of its lead-based paint activities program.

In order to maintain authorization, all program and enforcement elements, including all reporting requirements, must be met pursuant to the terms identified in Colorado's application. This approval does not authorize the State of Colorado to implement and/or enforce a lead-based paint activities program in Indian Country.

II. Federal Overfiling

TSCA section 404(b), makes it unlawful for any person to violate, or

fail or refuse to comply with, any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized State or Tribal program.

III. Withdrawal of Authorization

Pursuant to TSCA section 404(c), the Administrator may withdraw a State or Tribal lead-based paint activities program authorization, after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations, and other requirements established under the authorization. The procedures EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

IV. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

EPA's actions on State or Tribal lead-based paint activities program applications are informal adjudications, not rules. Therefore, the requirements of the Regulatory Flexibility Act (RFA, 5 U.S.C. 601 *et seq.*), the Congressional Review Act (5 U.S.C. 801 *et seq.*), Executive Order 12866 ("Regulatory Planning and Review," 58 FR 51735, October 4, 1993), and Executive Order 13045 ("Protection of Children from Environmental Health Risks and Safety Risks," 62 FR 1985, April 23, 1997), do not apply to this action. This action does not contain any Federal mandates, and therefore is not subject to the requirements of the Unfunded Mandates Reform Act (2 U.S.C. 1531-1538). In addition, this action does not contain any information collection requirements and therefore does not require review or approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

B. Executive Order 12875

Under Executive Order 12875, entitled "Enhancing Intergovernmental Partnerships" (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or Tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and Tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and Tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's action does not create an unfunded Federal mandate on State, local, or Tribal governments. This action does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this action.

C. Executive Order 13084

Under Executive Order 13084, entitled "Consultation and Coordination with Indian Tribal Governments" (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the Tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected Tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's action does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: August 26, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 99–23195 Filed 9–3–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[GEN Docket No. 90–314, FCC 99–200]

QUALCOMM Inc. Pioneer's Preference Granted

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On August 9, 1999, the Commission released a document granting QUALCOMM Incorporated (QUALCOMM) a pioneer's preference. The United States Court of Appeals for the District of Columbia Circuit ordered the Commission to grant QUALCOMM a pioneer's preference. The Commission in Compliance with the Court's decision, hereby grants QUALCOMM a pioneer's preference in the broadband Personal Communications Service.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452.

SUPPLEMENTARY INFORMATION:

1. On July 23, 1999, the United States Court of Appeals for the District of Columbia Circuit ordered the Commission to grant QUALCOMM Incorporated (QUALCOMM) a pioneer's preference "forthwith," See, *QUALCOMM Incorporated* v. *Federal Communications Commission*, D.C. Cir. No. 98–1246. The Commission had previously dismissed QUALCOMM's request for a pioneer's preference in the 2 GHz broadband Personal Communications Services; See *Review of the Pioneer's Preference Rules, ET Docket No. 93–266, Order*, 62 FR 48951, September 18, 1997, *recon. denied, Memorandum Opinion and Order*, 63 FR 24126, May 1, 1998. QUALCOMM appealed that dismissal, and the Court granted QUALCOMM's petition for review. The Commission, in compliance with the Court's decision, hereby grants QUALCOMM a pioneer's preference. In accordance with the Court's instructions, the Commission plans to act promptly to identify suitable frequency spectrum for an award of a license to QUALCOMM.

2. Accordingly, *it is ordered* that a pioneer's preference is hereby *Granted* to QUALCOMM Incorporated in accordance with the Court's decision. This action is taken pursuant to Sections 4(i) and 303(r) of the

Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–23163 Filed 9–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–1571]

QUALCOMM's Pioneers Preference

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission released a document on August 10, 1999, that dismisses Sprint Spectrum L.P. (Sprint) and PrimeCo Personal Communications, L.P., (PrimeCo) as parties to QUALCOMM, Incorporated pioneer preference proceeding. Since there is no longer any possibility that QUALCOMM's pioneer's preference will lead to the rescission of any license held by Sprint or PrimeCo, we are hereby dismissing Sprint and PrimeCo as parties to QUALCOMM's pioneer's preference proceeding.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452.

SUPPLEMENTARY INFORMATION: This is a summary of the text of the Commission's *Public Notice,* GEN Docket 90–314, DA 99–1571 released August 10, 1999. The document is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, D.C., and also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, N.W. Washington, D.C. 20036.

1. On February 25, 1997, Sprint and PrimeCo became parties to the QUALCOMM, Incorporated's (QUALCOMM's) pioneer's preference proceeding. We explained that because the Court of Appeals for the D.C. Circuit (Court) had recently vacated the Commission's decision to deny QUALCOMM's application for a 2 GHz broadband Personal Communications Services (PCS) pioneer's preference in the Southern Florida area, there was the possibility of a conflict between QUALCOMM's application and the fact that the only two broadband PCS licenses in the Miami-Ft. Lauderdale, Florida, Major Trading Area (MTA) had already been awarded to Sprint and PrimeCo.

2. Subsequently, the Commission dismissed QUALCOMM's application for a pioneer's preference; however, QUALCOMM appealed that dismissal, and the Court granted QUALCOMM's petition for review. In its decision, the Court stated:

> The FCC's sole discretion on remand * * * was to fashion an appropriate remedy for QUALCOMM in view of the fact that the Miami-Fort Lauderdale MTA sought by QUALCOMM had been awarded as a result of an auction to Sprint. QUALCOMM and the intervenors [Sprint and PrimeCo] argued on remand, and the FCC did not claim to the contrary, that the FCC had authority to grant QUALCOMM alternative relief.

3. On August 9, 1999, in compliance with the Court's decision, the Commission released an *Order* granting QUALCOMM a pioneer's preference. In the *Order*, the Commission stated that it planned to act promptly to identify suitable frequency spectrum for an award of a license to QUALCOMM.

4. We agree with Sprint, PrimeCo, and QUALCOMM that the Commission has the authority to grant QUALCOMM relief without rescinding, or otherwise adversely affecting, the broadband PCS licenses held by Sprint and PrimeCo in the Miami-Fort Lauderdale MTA. Moreover, in its decision, the Court strongly suggested that it expects the Commission to grant QUALCOMM relief without rescinding either of the Miami MTA licenses currently held by Sprint and PrimeCo. We also believe that the Commission at this point has no intention of taking a license from either Sprint or PrimeCo in order to award a license to QUALCOMM. Since there is no longer any possibility that QUALCOMM's pioneer's preference will lead to the rescission of any license held by Sprint or PrimeCo, we are hereby dismissing Sprint and PrimeCo as parties to QUALCOMM's pioneer's preference proceeding.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–23164 Filed 9–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–1640]

Accreditation Requirements for Telecommunication Certification Bodies

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document streamlines the Commission's equipment authorization requirements by allowing Telecommunications Certification Bodies (TCBs) to certify equipment under the Commission's Rules. The Commission released a public notice on August 17, 1999, listing those regulations and requirements.

FOR FURTHER INFORMATION CONTACT: Art Wall, Office of Engineering and Technology, (202) 418–2442, for *Part 2 Information*; and Bill Howden, Common Carrier Bureau, (202) 418–2343, for *Part 68 Information.*

SUPPLEMENTARY INFORMATION: This is the text of the Commission's Public Notice, DA 99–1640, released August 17, 1999. This document is available for inspection and copying during regular business hours in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC, and is available on the FCC's Internet site at www.fcc.gov/Bureaus/Engineering_Technology/Public_Notices/1999/. This document may also be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of Public Notice

1. In December 1998, the Commission adopted new rules to streamline its equipment authorization requirements by allowing Telecommunications Certification Bodies (TCBs) to certify equipment under parts 2 and 68 of the Commission's Rules. This notice provides further information on the accreditation requirements for TCBs.

2. The requirements for TCBs were specified in the Commission's Report and Order (R&O) in GEN Docket 98–68 (FCC 98–338), adopted on December 17, 1998, 64 FR 4984, February 2, 1999, http://www.fcc.gov/Engineering_Technology/Orders/1998/fcc98338.pdf/. TCBs are required to be accredited by the National Institute of Standards and Technology (NIST), or NIST may allow, in accordance with its procedures, other appropriate qualified accrediting bodies to accredit TCBs.

3. TCBs are to be accredited in accordance with ISO/IEC Guide 65 (1996), General Requirements for Bodies Operating Product Certification Systems and the appropriate FCCf Rules. The staff of the FCC's Office of Engineering and Technology (OET) and Common Carrier Bureau (CCB) have worked closely with NIST, equipment manufacturers and test laboratories to develop an accreditation process that is

consistent with the requirements of ISO/IEC Guide 65 and the FCC Rules.

4. Accreditation will be available for several different scopes of equipment subject to certification. TCBs can choose to obtain accreditation for any or all of the available scopes, depending on their needs. The scopes are defined in the attachment to this notice. The attachment also specifies the capabilities that must be demonstrated to obtain accreditation within each scope. Finally, the attachment clarifies certain aspects of the TCB requirements in the Rules.

5. NIST will announce the administrative details for applying for TCB accreditation in the near future. The Commission will continue working with NIST to assist in the accreditation of TCBs.

6. TCBs located outside the United States may certify equipment in accordance with the terms of an effective bilateral or multilateral mutual recognition agreement. Accreditation of TCBs outside the United States shall be consistent with this public notice and the attachment to this notice.

Procedures for Accrediting a Telecommunication Certification Body

I. TCB Designation Process and Requirements

The process for designation of TCBs and requirements that must be met are contained in the FCC rules. See, in particular, 47 CFR 2.960, 2.962, 68.160 and 68.162.

Accreditation Requirements

TCBs shall be capable of testing equipment to a core set of equipment tests for each scope of accreditation, as stated below. TCBs must be accredited in accordance with the general guidelines in ISO/IEC Guide 65 (1996), *General requirements for bodies operating certification systems.* To ensure that it is capable of performing the tests within the scope of accreditation, the TCB must also be accredited to ISO/IEC Guide 25, *General requirements for the competence of calibration and testing laboratories.* Both ISO/IEC Guides are available through the American National Standards Institute, Customer Service, 11 West 42nd Street, New York, NY—10036, telephone 212–642–4900, facsimile 212–302–1286, or e-mail to jrichard@ansi.org.

III. Accreditation Scopes

TCBs will be accredited to certify one or more of the following scopes of equipment:

A. Unlicensed Radio Frequency Devices

1. Low power transmitters operating on frequencies below 1 GHz (with the exception of spread spectrum devices), emergency alert systems, unintentional radiators (e.g., personal computers and associated peripherals and TV Interface Devices) and consumer ISM devices subject to certification (e.g., microwave ovens, RF lighting and other consumer ISM devices).

2. Low power transmitters operating on frequencies above 1 GHz, with the exception of spread spectrum devices.

3. Unlicensed Personal Communication System (PCS) devices.

4. Unlicensed National Information Infrastructure (UNII) devices and low power transmitters using spread spectrum techniques.

B. Licensed Radio Service Equipment

1. Personal Mobile Radio Services in 47 CFR parts 22 (cellular), 24, 25, 26, and 27.

2. General Mobile Radio Services in the following 47 CFR parts 22 (non-cellular), 74, 90, 95 and 97.

3. Maritime and Aviation Radio Services in 47 CFR parts 80 and 87.

4. Microwave Radio Services in 47 CFR parts 21, 74 and 101.

C. Telephone Terminal Equipment (47 CFR part 68)

1. Telephone terminal equipment in 47 CFR part 68.

Notes for Accreditation Scopes A, B and C: (1) The TCB is not required to have the capability to perform each required test, but must have the minimum testing capabilities specified below for each type of equipment.

(2) The measurement procedures for licensed PCS devices and UNII devices and the procedures for determining RF exposure for hand-held transmitters have not been published. Accreditation and designation of a TCB to certify such equipment will be withheld until the appropriate procedures have been published.

IV. Specific Capabilities: Unlicensed Radio Frequency Devices

The TCB must:

A. Possess a thorough knowledge of FCC Rules contained in 47 CFR parts 2, 11, 15 & 18, including latest interpretations thereof;

B. Possess a thorough knowledge of all appropriate procedures (e.g., ANSI C63.4–1992, FCC MP–5, etc.) for testing and evaluating radio frequency devices;

C. Possess a thorough understanding of the FCC equipment authorization program and specifically, 47 CFR part 2, Subparts I, J and K;

D. Have copies of all applicable FCC Rules and test procedures and be able to demonstrate an ability to obtain recent rules and interpretations;

E. Be capable of evaluating the application and results of each of the following types of tests that are appropriate for the scope of accreditation:

1. Radiated emission tests from 9 kHz to 1 GHz;

2. Radiated emission tests from 1 GHz to 231 GHz *(for devices having emissions on frequencies above 1 GHz)*;

3. Line conducted emission tests from 9 kHz to 30 MHz;

4. Power density measurements;

5. RF bandwidth measurements;

6. Frequency stability measurements;

7. RF exposure measurements and computations, as specified in FCC OET Bulletin 65—Supplement C and 47 CFR 2.1091 and 2.1093;

8. Site attenuation measurements per ANSI C63.4–1992;

9. RF output power measurements, per 47 CFR 15.247 and 47 CFR part 15, Subparts D and E;

10. RF antenna conducted measurements;

11. Processing gain for direct sequence spread spectrum systems (47 CFR 15.247);

12. UPCS monitoring tests (47 CFR part 15, subpart D).

F. Be capable of evaluating test reports and associated documentation to determine the compliance of devices operating under the general provisions of part 15, as well as the following specific devices that are appropriate for the scope of accreditation:

1. Swept-frequency anti-pilferage systems (47 CFR 15.223);

2. Low power transmitters, e.g. R/C toys and baby monitors (47 CFR 15.227 and 15.235);

3. Remote control and security systems (47 CFR 15.231);

4. Cordless telephones (47 CFR 15.233);

5. Frequency-hopping & direct-sequence spread spectrum systems (47 CFR 15.247);

6. Cordless telephones (47 CFR 15.249)

7. Field disturbance sensors, intrusion detectors (47 CFR 15.245);

8. Biomedical telemetry devices (47 CFR 15.241 and 15.242);

9. Auditory assistance devices (47 CFR 15.237);

10. Automatic vehicle identification systems (47 CFR 15.251);

11. Vehicle radar systems (47 CFR 15.253);

12. Unlicensed Personal Communication Systems (47 CFR part 15, subpart D);

13. Unlicensed NII devices (47 CFR part 15, subpart E);

G. Be capable of performing the following core set of tests that are within the scope of accreditation:

1. Radiated emission tests (9 kHz to 1 GHz);

2. Radiated emission tests above 1 GHz that are appropriate for the scope of accreditation;

3. Line conducted emission tests (9 kHz to 30 MHz);

4. Power density measurements;

5. RF bandwidth measurements;

6. Frequency stability measurements (-20°C to +50°C);

7. Site attenuation measurements per ANSI C63.4–1992 (30 MHz to 1000 MHz);

8. RF output power measurements, per 47 CFR 15.247 and Subparts D & E of part 15;

9. RF antenna conducted measurements;

H. Have detailed knowledge and equipment for electronic filing and access to the FCC Internet database. The grants of certification issued by the TCB must include the same information (e.g., grantee codes, note codes, FCC ID, equipment classifications, rules parts, etc.) as the grants issued by the FCC. The information for each grant can be obtained from the FCC database.

V. Specific Capabilities: Licensed Radio Service Equipment

The TCB must:

A. Possess a knowledge of the Commission's Rules contained in 47 CFR parts 2, 22, 24, 25, 26, 27, 74, 80, 87, 90, 95, 97 and 101, including latest interpretations thereof;

B. Possess a knowledge of all appropriate standards and procedures (e.g., 47 CFR part 2, EIA/TIA Standard 603, etc.) for testing and evaluating licensed radio equipment;

C. Possess a thorough understanding of the FCC equipment authorization program covered in 47 CFR part 2, subparts I, J and K, including the required government coordination with other U.S. government agencies (e.g., FAA and USCG);

D. Have copies of all applicable FCC rules and test procedures and be able to obtain recent rules and interpretations;

E. Be capable of evaluating each of the following types of tests within the scope of accreditation:

1. RF power output measurements (47 CFR 2.1046);

2. Modulation characteristics measurements (47 CFR 2.1047);

3. Occupied bandwidth measurements (47 CFR 2.1049);

4. Spurious emissions at antenna terminals (47 CFR 2.1051);

5. Field strength of spurious radiation measurements (47 CFR 2.1053);

6. Frequency stability measurements (47 CFR 2.1055);

7. RF exposure measurements and computations, as specified in FCC OET Bulletin 65—Supplement C and 47 CFR 2.1091 and 2.1093;

F. Be capable of evaluating test reports and associated documentation to determine the compliance of the following specific devices within the scope of accreditation:

1. Cellular services (47 CFR part 22);

2. Licensed personal communication service (47 CFR part 24);

3. Satellite communication services—GMPCS (47 CFR part 25);

4. Wireless communication services—WCS (47 CFR parts 26 & 27);

5. Radio & auxiliary broadcast services (47 CFR part 74);

6. Aviation radio services (47 CFR part 87);

7. Maritime radio services (47 CFR part 80);

8. Private land mobile radio services (47 CFR part 90);

9. Fixed microwave radio services (47 CFR part 101);

10. Personal radio services (47 CFR part 95);

11. Amateur amplifiers under 47 CFR part 97);

G. Be capable of performing the following core set of tests that are within the scope of accreditation:

1. RF conducted and radiated power output measurements;

2. Modulation characteristics measurements;

3. Occupied bandwidth measurements;

4. Spurious emissions at antenna terminals;

5. Field strength measurements (9 kHz to 40 GHz) that are appropriate for the scope of accreditation;

6. Frequency stability measurements (−30°C to +50°C);

H. Have detailed knowledge and equipment for electronic filing and access to the FCC Internet database. (The grants of certification must include the same information (e.g., grantee codes, note codes, FCC ID, equipment classifications, rules parts, etc.) as the grants issued by the FCC. The information for each grant can be obtained from the FCC database.)

VI. Specific Capabilities: Telephone Terminal Equipment

The TCB must:

A. Possess a knowledge of 47 CFR part 68, including latest interpretations thereof.

B. Possess a thorough understanding of all appropriate procedures (e.g., TIA/TSB 31B) for testing and evaluating telephone terminal equipment.

C. Possess a thorough understanding of the FCC equipment authorization program and specifically FCC Form 730 Application Guide.

D. Have copies of all applicable FCC Rules and test procedures and be able to obtain recent rules and interpretations;

E. Possess an ability to evaluate each of the following types of tests:

1. Environmental simulation measurements. Specifically, demonstrate ability to perform Type A and Type B surge tests. (47 CFR 68.302)

2. Leakage current measurements. (47 CFR 68.304)

3. Hazardous voltage measurements. (47 CFR 68.306)

4. Analog signal power measurements. (47 CFR 68.308)

5. Digital signal power measurements. (47 CFR 68.308)

6. Transverse balance measurements. (47 CFR 68.310)

7. On-hook impedance measurements. (47 CFR 68.312)

8. Billing protection measurements. (47 CFR 68.314)

9. Hearing aid compatibility measurements. Specifically demonstrate an understanding of magnetic field strength measurements (ANSI/EIA/TIA–RS–504) and acoustics measurements (ANSI/EIA/TIA–579–1991 and ANSI/EIA/TIA–470–A–1987)) (47 CFR 68.316 and 68.317)

10. Additional Limitations. (47 CFR 68.318)

F. Be capable of evaluating test reports and associated documentation to determine the compliance of devices operating under the general provisions of part 68, as well as the following specific devices:

1. Data Modem with a loop-start interfaces.

2. Single line telephone set with a loop-start interface.

3. PBX with loop-start, ground-start, reverse battery, E&M tie trunk, and OPS interfaces.

4. PBX with digital trunks that require decoding encoded analog signals. (T–1, ISDN Basic Rate, and ISDN Primary Rate Interfaces)

5. CSU with a T–1 (1.544 Mbps) interface.

6. Digital data modem with sub-rate digital interfaces.

G. Be capable of performing the following core set of tests that are within the scope of accreditation:

1. Environmental simulation measurements. Specifically demonstrate ability to perform Type A and Type B surge tests.

2. Leakage current measurements.

3. Hazardous voltage measurements.

4. Analog signal power measurements.
5. Digital signal power measurements.
6. Transverse balance measurements.
7. On-hook impedance measurements.
8. Billing protection measurements.
9. Hearing aid compatibility measurements. Specifically demonstrate an understanding of magnetic field strength measurements (ANSI/EIA/TIA–RS–504) and acoustics measurements (ANSI/EIA/TIA–579–1991 and ANSI/EIA/TIA–470–A–1987))
10. Automatic redialing.

H. Have detailed knowledge for conveying information to FCC required by FCC procedures for telephone terminal equipment.

VII. Clarification of TCB Requirements

TCB Acceptance of Test Data and Sub-Contracting.

A TCB may accept test data from a manufacturer or independent laboratory for purposes of equipment certification. The TCB shall review the test data and must be confident that the product meets the relevant requirements before it approves product. Alternatively, the TCB may perform the required tests itself on a contract basis with the applicant for certification of the product. In such situations, the TCB may subcontract a portion of, or all, the required testing to an independent laboratory. In such cases, the TCB is responsible for all tests performed by the subcontractor and must maintain appropriate oversight of the subcontractor to ensure reliability of the test results. A subcontractor that is accredited to ISO/IEC Guide 25 should not normally require any additional accreditation by the TCB.

TCB Auditing Requirements

In the Report and Order, the Commission noted that ISO/IEC Guide 65 requires a certification body to perform surveillance activities. The Commission did not specify a number or percentage of products that a TCB should test to satisfy this guideline, since our experience has shown that different levels of scrutiny are required for different products to ensure compliance. We will rely on TCBs to use judgment in complying with this guideline. In general, a TCB is expected to test at least several samples each year for the various types of products it certified. The TCB may perform other types of surveillance, provided such activities are no more burdensome than type testing on the grantee of certification. This will provide TCBs some flexibility in determining continuing compliance of products that they certify. If a product fails to comply with the FCC Rules during the auditing process, the TCB shall immediately notify the grantee and the FCC. A follow-up report shall also be provided to the FCC within 30 days of the action taken by the grantee to correct the situation. The TCB shall also submit to the FCC within 30 days of such a request, reports of surveillance activities carried out by the TCB. A TCB may also be required to test a product certified by the TCB and report its findings to the FCC within 30 days to support compliance investigations.

Records Retention

The TCB shall retain for five years all documentation associated with the approval of a product subject to certification by the Commission.

Multiple Sites

A TCB may be accredited for multiple test sites in accordance with guidelines established by NIST.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–23165 Filed 9–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–1591]

Auction of 929 and 931 MHz Paging Service Spectrum; Report No. AUC–99–26–B (Auction No. 26)

AGENCY: Federal Communications Commission.

ACTION: Public Notice.

SUMMARY: This Public Notice announces the procedures and minimum opening bids for the upcoming Paging 929 and 931 MHz Upper Bands Auction ("Upper Bands Auction"). This document gives auction notice and filing requirements for 2,499 paging upper band licenses scheduled for February 24, 2000 and announces minimum opening bids and other procedural issues. On June 7, 1999, the Wireless Telecommunications Bureau ("Bureau") released a Public Notice seeking comment on the establishment of reserve prices or minimum opening bids for the Upper Bands auction. In addition, the Bureau sought comment on a number of procedures to be used in the Upper Bands auction. The Bureau received four comments and no replies in response to the Paging Upper Bands Public Notice.

DATES: This auction is scheduled for February 24, 2000.

FOR FURTHER INFORMATION CONTACT:

Auctions and Industry Analysis Division: Lisa Hartigan, Operations or Arthur Lechtman, Legal Branch at (202) 418–0660; Bob Reagle, Auctions Analysis at (717) 338–2807.

Commercial Wireless Division: Cynthia Thomas, Policy and Rules Branch (202) 418–7240; Charlene Lagerwerff, Licensing and Technical Analysis Branch (202) 418–1385.

Media Contact: Meribeth McCarrick at (202) 418–0654.

SUPPLEMENTARY INFORMATION: This is a summary of a Public Notice released August 12, 1999. The text of the public notice, including all attachments, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.), 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800. It is also available on the Commission's website at http://www.fcc.gov.

1. *The Upper Band Licenses to Be Auctioned:* The licenses available in this auction consist of 12 channels in the 929 MHz band and 37 channels in the 931 MHz band. The following tables contain the Block/Frequency Cross-Reference List for the 929 MHz and 931 MHz bands:

929 MHz Paging Channels

Block	Frequency
License Suffix:	
A	929.0125
B	929.1125
C	929.2375
D	929.3125
E	929.3875
F	929.4375
G	929.4625
H	929.6375
I	929.6875
J	929.7875
K	929.9125
L	929.9625

931 MHz Paging Channels

Block	Frequency
License Suffix:	
AA	931.0125
AB	931.0375
AC	931.0625
AD	931.0875
AE	931.1125
AF	931.1375
AG	931.1625
AH	931.1875
AI	931.2125
AJ	931.2375
AK	931.2625

931 MHz PAGING CHANNELS—Continued

Block	Frequency
AL	931.2875
AM	931.3125
AN	931.3375
AO	931.3625
AP	931.3875
AQ	931.4125
AR	931.4375
AS	931.4625
AT	931.4875
AU	931.5125
AV	931.5375
AW	931.5625
AX	931.5875
AY	931.6125
AZ	931.6375
BA	931.6625
BB	931.6875
BC	931.7125
BD	931.7375
BE	931.7625
BF	931.7875
BG	931.8125
BH	931.8375
BI	931.8625
BJ	931.9625
BK	931.9875

One license will be awarded for each of these spectrum blocks in each of the 51 geographic areas known as Major Economic Areas ("MEAs"), resulting in a total of 2,499 Upper Bands paging licenses. These licenses are listed in Attachment A to this Public Notice. The licenses designated for the Upper Band auction comprise various portions of the following areas: (a) the continental United States, (b) the Northern Mariana Islands, (c) Guam, (d) American Samoa, (e) the United States Virgin Islands, and (f) Puerto Rico.

Auction Date: The auction will begin on Thursday, February 24, 2000. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

Auction Title: The 929 and 931 MHz Upper Bands Paging Auction—Auction No. 26.

Bidding Methodology: Simultaneous multiple round bidding. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

Pre-Auction Deadlines:

Auction Seminar—January 7, 2000

Short Form Application (FCC Form 175)—January 20, 2000; 5:30 p.m. ET

Upfront Payments (via wire transfer)—February 7, 2000; 6:00 p.m. ET

Orders for Remote Bidding Software—February 11, 2000; 5:30 p.m. ET

Mock Auction—February 22, 2000

Telephone Contacts:

Auctions Hotline—(888) CALL–FCC (888) 225–5322, press Option #2 or (717) 338–2888 (direct dial)
(For Bidder Information Packages, General Auction Information, and Seminar Registration. Hours of service: 8 a.m.–5:30 p.m. ET.)

FCC Technical Support Hotline (202) 414–1250 (voice), (202) 414–1255 (TTY)
(For technical assistance with installing or using FCC software. Hours of service: 8 a.m.–6 p.m. ET, Monday–Friday)

List of Attachments available at the FCC:

Attachment A—Summary of Paging 929 and 931 MHz Licenses to be Auctioned, Upfront Payments, Minimum Opening Bids

Attachment B—Existing 929 MHz Licensees and 931 MHz Licensees

Attachment C—Guidelines for Completion of FCC Forms 175 and 159, and Exhibits

Attachment D—Electronic Filing and Review of FCC Form 175

Attachment E—How to Monitor FCC Auctions Online

Attachment F—Accessing the FCC Network Using Windows 95/98

Attachment G—FCC Remote Bidding Software Order Form

Attachment H—Summary Listing of Documents from the Commission and the Wireless Telecommunications Bureau Addressing Application of the Anti-Collusion Rules

Attachment I—Auction Seminar Registration Form

Attachment J—Exponential Smoothing Formula and Example

1. Synopsis

2. *Background:* In 1997 and 1998, the Commission adopted rules governing geographic licensing of Common Carrier Paging ("CCP") and exclusive 929 MHz Private Carrier Paging ("PCP"), and established procedures for auctioning mutually exclusive applications for these licenses. *See, Second Report and Order and Further Notice of Proposed Rulemaking,* (*"Paging Second Report and Order"*) 62 FR 11616 (March 12, 1997) and 62 FR 11638 (March 12, 1997); *Memorandum Opinion and Order on Reconsideration and Third Report and Order,* (*"Paging Reconsideration Order"* and *"Third Report and Order"*) 64 FR 33762 (June 24, 1999). In order to facilitate the geographic licensing program, the Commission dismissed pending mutually exclusive applications and applications filed after July 31, 1996. The Commission provided for a transition to geographic area licensing for exclusive, non-nationwide channels in the bands allocated for paging and developing a standard methodology for providing protection to incumbent licensees from co-channel interference for the 929–930 MHz and 931–932 MHz paging bands. The Commission proposed the first in a series of auctions of Paging service licenses to commence December 7, 1999, *First Paging Service Spectrum Auction Scheduled for December 7, 1999; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, Public Notice,* DA 99–1103 (released June 7, 1999), (*"Upper Bands Public Notice"*) 64 FR 36009 (July 2, 1999).

Scheduling: Due to concerns raised about the timing of the Auction No. 26, the Wireless Telecommunications Bureau ("Bureau") has rescheduled the auction to commence on February 24, 2000. Parties responding to the *Upper Bands Public Notice* raised several reasons for delaying the auction, including anticipated computer software problems associated with the roll-over into the Year 2000 ("Y2K"). The Bureau recognizes that preparing their existing businesses for the Y2K roll-over while preparing for an auction could present formidable problems for potential bidders. Accordingly, the Bureau is providing information now about the auction, and allowing for the submission of Short-Form Applications (FCC Form 175) twenty days after the onset of Y2K. The Bureau believes that this new schedule provides sufficient time for potential bidders to prepare their computer systems for the auction and correct any problems that might have been caused by Y2K.

Incumbent Licensees: Incumbent (nongeographic) paging licensees operating under their existing authorizations are entitled to full protection from co-channel interference. *See Paging Second Report and Order* and *Paging Reconsideration Order.* Geographic area licensees are likewise afforded co-channel interference protection from incumbent licensees. *See Paging Reconsideration Order.* Adjacent geographic area licensees are obligated to resolve possible interference concerns of adjacent geographic area licensees by negotiating a mutually acceptable agreement with the neighboring geographic licensee. Incumbency issues are further discussed.

Due Diligence: Potential bidders are reminded that there are a number of incumbent licensees already licensed and operating on frequencies that will be subject to the upcoming auction.

Geographic area licensees in accordance with the Commission's Rules must protect such incumbents from harmful interference. *See* 47 CFR 22.503(i). These limitations may restrict the ability of such geographic area licensees to use certain portions of the electromagnetic spectrum or provide service to certain areas in their geographic license areas.

3. In addition, potential bidders seeking licenses for geographic areas adjacent to the Canadian and Mexican border should be aware that the use of some or all of the channels they acquire in the auction could be restricted as a result of agreements with Canada or Mexico on the use of 929 and 931 MHz spectrum in the border area.

4. Potential bidders should also be aware that certain applications (including those for modification), waiver requests, petitions to deny, petitions for reconsideration, and applications for review are pending before the Commission that relate to particular applicants or incumbent licensees. In addition, certain decisions reached in the paging proceeding are subject to judicial appeal and may be the subject of additional reconsideration or appeal. The Bureau notes that resolution of these matters could have an impact on the availability of spectrum for MEA licensees in the 929 and 931 MHz bands. In addition, while the Commission will continue to act on pending applications, requests and petitions, some of these matters may not be resolved by the time of the auction.

5. Potential bidders are solely responsible for investigating and evaluating the degree to which such pending matters may affect spectrum availability in areas where they seek MEA licenses.

6. To aid potential bidders, Attachment B to this Public Notice lists matters pending before the Commission that relate to licenses or applications for the 929 MHz and 931 MHz service. The Commission makes no representations or guarantees that the listed matters are the only pending matters that could affect spectrum availability in the 929 or 931 MHz bands.

7. Parties may submit additions or corrections to the list, provided such additions or corrections are filed with the Commission within ten (10) business days from release of this Public Notice. Such submissions should be limited to identifying pleadings or papers previously filed with the Commission. No new pleadings or arguments on the merits will be accepted as explicitly provided by Commission Rules. *See* 47 CFR 1.45(c).

8. Corrections and additions must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth St., SW, Washington, DC 20554. One copy of each submission should also be delivered to the Commission's duplicating contractor, International Transcription Service, Inc., ("ITS"), 445 Twelfth Street, SW, CY–B402, Washington, DC 20554, while an additional courtesy copy should be sent to Cyndi Thomas, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth St., SW, Room 4–A164, Washington, DC 20554. Parties filing additions or corrections should include the internal reference number of this Public Notice (DA 99–1591) on their submissions. Parties are also reminded that some of the proceedings are restricted and governed by the Commission's ex parte rules. Accordingly, any submission filed pursuant to this Public Notice that is directed to the merits or outcome of any restricted proceeding must be served on all parties to that restricted proceeding. *See* generally 47 CFR 1.1200–1.1216.

9. Copies of the pleadings relating to the 931 MHz band identified in Attachment B are available for public inspection and copying during normal reference room hours at: Office of Public Affairs (OPA), Reference Operations Division, 445 Twelfth Street, SW, Room CY–C314, Washington, DC 20554. Copies of the pleadings relating to the 929 MHz band identified in Attachment B are available for public inspection and copying during normal reference room hours at: Wireless Telecommunications Bureau (Gettysburg), Public Reference Room, 1270 Fairfield Road, Gettysburg, PA 17325.

10. In addition, potential bidders may research the Bureau's licensing databases on the World Wide Web in order to determine which frequencies are already licensed to incumbent licensees. Because some of the incumbent paging licensing records have not yet been converted to the Bureau's new Universal Licensing System (ULS), potential bidders may have to select other databases to perform research for the frequency(s) of interest. The research options will allow potential bidders to download licensing data, as well as to perform queries online.

11. *929 MHz band Incumbent Licenses:* Licensing records for the 929 MHz band are contained in the Bureau's Land Mobile database (not ULS) and may be researched on the internet at *http://www.fcc.gov/wtb* by selecting the "Databases" link at the top of the page. Potential bidders may download a copy of the licensing database by selecting "Download the Wireless Databases" and choosing the appropriate files under "Land Mobile Database Files—47 CFR parts 74, 90, and 95." Alternatively, potential bidders may query the Bureau's licensing records online by selecting "Search the Wireless Database Online."

12. *931 MHz band Incumbent Licenses:* Licensing records for the 931 MHz band are contained in the Bureau's ULS and may be researched on the internet at *http://www.fcc.gov/wtb/uls* by selecting the "License Search" button in the left frame. Potential bidders may query the database online and download a copy of their search results if desired. The Bureau recommends that potential bidders select the "Frequency" option under License Search, specify the desired frequency, and use the "GeoSearch" button at the bottom of the screen to limit their searches to a particular geographic area. Detailed instructions on using License Search (including frequency searches and the GeoSearch capability) and downloading query results are available online by selecting the "?" button at the bottom right-hand corner of the License Search screen.

13. Potential bidders should direct questions regarding the search capabilities to the FCC Technical Support Hotline at (202) 414–1250 (voice) or (202) 414–1255 (TTY), or via email at ulscomm@fcc.gov. The hotline is available Monday through Friday, from 8:00 AM to 6:00 PM Eastern Time. In order to provide better service to the public, all calls to the hotline are recorded.

14. The Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the database. Potential bidders are strongly encouraged to physically inspect any sites located in or near the geographic area for which they plan to bid.

Participation: Those wishing to participate in the auction must: Submit a short form application (FCC Form 175) electronically by January 20, 2000. Submit a sufficient upfront payment and a FCC Remittance Advice Form (FCC Form 159) by February 7, 2000.

Comply with all provisions outlined in this Public Notice.

Prohibition of Collusion: To ensure the competitiveness of the auction process, the Commission's Rules prohibit applicants for the same geographic license area from communicating with each other during the auction about bids, bidding strategies, or settlements. *See Paging*

Reconsideration Order, 47 CFR 1.2105(c). This prohibition begins with the filing of short-form applications, and ends on the down payment due date. Bidders competing for the same license(s) are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he/she is authorized to represent in the auction. Also, if the authorized bidders are different individuals employed by the same organization (*e.g.*, law firm or consulting firm), a violation could similarly occur. At a minimum, in such a case, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.

15. The Bureau, however, cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred nor will it preclude the initiation of an investigation when warranted. In the Upper Band auction, for example, the rule would apply to any applicants bidding for the same MEA. Therefore, applicants that apply to bid for "all markets" would be precluded from communicating with all other applicants after filing the FCC Form 175. However, applicants may enter into bidding agreements before filing their FCC Form 175 short-form applications, as long as they disclose the existence of the agreement(s) in their Form 175 short-form applications. *See* 47 CFR 1.2105(c). By signing their FCC 175 short form applications, applicants are certifying their compliance with § 1.2105(c). In addition, § 1.65 of the Commission's Rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. *See* 47 CFR 1.65. Thus, § 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules upon learning of such violation. Bidders are therefore required to make such notification to the Commission immediately upon discovery.

Relevant Authority: Prospective bidders must familiarize themselves thoroughly with the Commission's Rules relating to Upper Band, contained in title 47, part 22 and part 90 of the Code of Federal Regulations, and those relating to application and auction procedures, contained in title 47, part 1 of the Code of Federal Regulations.

16. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions (collectively, "Terms") contained in the *Second Report and Order* in PP Docket No. 93–253, 59 FR 22980 (April 1994); the *Second Memorandum Opinion and Order* in PP Docket No. 93–253, 59 FR 44272 (August 1994); the *Erratum to the Second Memorandum Opinion and Order* in PP Docket No. 93–253 (released October 19, 1994); Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, WT Docket No. 96–18 *Notice of Proposed Rulemaking*, 61 FR 6199 (February 16, 1996) ("*Paging Notice*"); Revision of part 22 and part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, WT Docket No. 96–18, *First Report and Order*, 61 FR 21380 (May 10, 1996) ("*Paging First Report and Order*"); Revision of part 22 and part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, WT Docket No. 96–18, *Order on Reconsideration of First Report and Order*, 61 FR 34375 (July 2, 1996) ("*First Paging Reconsideration*"); Revision of part 22 and part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, *Second Report and Order and Further Notice of Proposed Rulemaking*, ("*Paging Second Report and Order*"); Revision of part 22 and part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, *Memorandum Opinion and Order on Reconsideration and Third Report and Order*, FCC 99–98 (released May 24, 1999) ("*Paging Reconsideration Order*" and "*Paging Third Report and Order*").

17. The terms contained in the Commission's Rules, relevant orders, public notices and bidder information package are not negotiable. The Commission may amend or supplement the information contained in its public notices or the bidder information package at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission Rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Internet node via anonymous ftp@ftp.fcc.gov or the FCC World Wide Web site at http://www.fcc.gov/wtb/auctions. Additionally, documents may be obtained for a fee by calling the Commission's copy contractor, International Transcription Service, Inc. (ITS), at (202) 314–3070. When ordering documents from ITS, please provide the appropriate FCC number (*e.g.*, FCC 99–98 for the *Paging Third Report and Order*).

Bidder Alerts: All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency. Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

18. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, nor does an FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

19. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use the Upper Bands Auction to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of the minimum investment is less than $25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service ("IRS"), Federal Trade Commission ("FTC"), Securities and Exchange Commission ("SEC"), FCC, or other government agency has approved the investment; (b)

the investment is not subject to state or federal securities laws: or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

20. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 362–2222 and from the SEC at (202) 942–7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876–7060. Consumers who have concerns about specific Upper Band proposals may also call the FCC National Call Center at (888) CALL–FCC (888) 225–5322).

2. Bidder Eligibility and Small Business Provisions

A. General Eligibility Criteria

21. This auction offers 2,499 licensees in the 929 and 931 MHz bands. In the *Paging Second Report and Order* and *Paging Reconsideration Order*, the Commission adopted small business provisions to promote and facilitate the participation of small business in the Upper Bands Auction and in the provision of this and other commercial mobile radio services. General eligibility to provide Upper Bands service, subject to any restrictions outlined in the Commission's rules, is afforded to entities that are not precluded under 47 CFR 22.217 and 22.223.

(i) Determination of Revenues

22. For purposes of determining which entities qualify as very small businesses or small businesses, the Commission will consider the gross revenues of the applicant, its controlling interests, and the affiliates of the applicant and its controlling interests. Therefore, the gross revenues of all of the entities must be disclosed *separately and in the aggregate* as Exhibit C to an applicant's FCC Form 175. The Commission does not impose specific equity requirements on controlling interests. Once principals or entities with a controlling interest are determined, only the revenues of those principals or entities will be counted in determining small business eligibility. The term "control" includes both *de facto* and *de jure* control of the applicant. Typically, *ownership of at least 50.1 percent of an entity's voting stock evidences de jure control. De facto* control is determined on a case-by-case basis. *See* 47 CFR 1.211(b)(4). The following are some common indicia of control:

- The entity constitutes or appoints more than 50 percent of the board of directors or management committee;
- The entity has authority to appoint, promote, demote, and fire senior executive that control the day-to-day activities of the licensee; or
- The entity plays an integral role in management decisions.

(ii) Small or Very Small Business Consortia

23. A consortium of small businesses, or very small businesses is a conglomerate organization formed as a joint venture between or among mutually independent business firms, each of which *individually* satisfies the definition of small or very small business in § 22.223. Thus, each consortium member must disclose its gross revenues along with those of its affiliates, controlling interests, and controlling interests' affiliates. The Bureau notes that although the gross revenues of the consortium members will not be aggregated for purposes of determining eligibility for small or very small business credits, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

(iii) Application Showing

24. Applicants should note that they will be required to file supporting documentation as Exhibit C to their FCC Form 175 short form applications to establish that they satisfy the eligibility requirements to qualify as a small business or very small business (or consortiums of small or very small businesses) for this auction. *See* 47 CFR 22.217 and 1.2105. Specifically, for the Upper Bands Auction, applicants applying to bid as small or very small businesses (or consortiums of very small businesses) will be required to file as Exhibit C to their FCC Form, 175 short form applications, all information required under §§ 1.2105(a) and 1.2112(a). In addition, these applicants must disclose, *separately and in the aggregate*, the gross revenues for the preceding three years of each of the following: (a) the applicant; (b) the applicant's affiliates; (c) the applicant's controlling interests; and (d) the affiliates of the applicant's controlling interests. Certification that the average gross revenues for the preceding three years do not exceed the applicable limit is not sufficient. A statement of the total gross revenues for the preceding three years is also insufficient. The applicant must provide separately for itself, its affiliates, and its controlling interests, a schedule of gross revenues for *each* of the preceding three years, as well as a statement of total average gross revenues for the three-year period. If the applicant is applying as a consortium of very small or small businesses, this information must be provided for each consortium member.

B. Bidding Credits

25. Applicants that qualify under the definitions of small business, and very small business (or consortia of very small, or small businesses as are set forth in 47 CFR 22.223, are eligible for a bidding credit that represents the amount by which a bidder's winning bids are discounted. The size of an Upper Bands bidding credit depends on the average gross revenues for the preceding three years of the bidder and its controlling interests and affiliates:

- A bidder with average gross revenues of not more than $15 million for the preceding three years receives a 25 percent discount on its winning bids for Upper Bands licenses ("small business"); *See* 47 CFR 22.223(b)(1)(ii).
- A bidder with average gross revenues of not more than $3 million for the preceding three years receives a 35 percent discount on its winning bids for Upper Bands licenses ("very small business") *See* 47 CFR 22.223(b)(1)(i).

26. Bidding credits are not cumulative: qualifying applicants receive either the 25 percent or the 35 percent bidding credit, but not both.

27. Upper Bands bidders should note that unjust enrichment provisions apply to winning bidders that use bidding credits and subsequently assign or transfer control of their licenses to an entity not qualifying for the same level of bidding credit. Finally, bidders should also note that there are no installment payment plans in the Upper Bands Auction.

3. Pre-Auction Procedures

A. Short-Form Application (FCC Form 175)—Due January 20, 2000

28. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application. This application must be submitted electronically and received at the Commission by 5:30 p.m. ET on January 20, 2000. Late applications will not be accepted.

29. There is no application fee required when filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment. *See* II.C, *infra*.

(i) Electronic Filing

30. Applicants must file their FCC Form 175 applications electronically. *See* 47 CFR 1.2105(a). Applications may generally be filed at any time from January 7, 2000 until 5:30 p.m. ET on January 20, 2000. Applicants are strongly encouraged to file early, and applicants are responsible for allowing adequate time for filing their applications. Applicants may update or amend their electronic applications multiple times until the filing deadline on January 20, 2000.

31. Applicants must press the "Submit Form 175" button on the "Submit" page of the electronic form to successfully submit their FCC Forms 175. Information about accessing the FCC Form 175 is included in Attachment D. Technical support is available at (202) 414–1250 (voice) or (202) 414–1255 (text telephone (TTY)); the hours of service are 8 a.m.–6 p.m. ET, Monday–Friday.

(ii) Completion of the FCC Form 175

32. Applicants should carefully review 47 CFR 1.105, and must complete all items on the FCC Form 175. Instructions for completing the FCC Form 175 are in Attachment C. Applicants are encouraged to begin preparing the required attachments for FCC Form 175 prior to submitting the form. Attachments C and D provide information on the required attachments and appropriate formats.

(iii) Electronic Review of FCC Form 175

33. The FCC Form 175 review software may be used to review and print applicants' FCC Form 175 information. Applicants may also view other applicants' completed FCC Form 175s after the filing deadline has passed and the FCC has issued a public notice explaining the status of the applications. for this reason, it is important that applicants do not include their Taxpayer Identification Numbers (TINs) on any Exhibits to their FCC Form 175 applications. There is no fee for accessing this system. *See* Attachment D for details.

B. Application Processing and Minor Corrections

34. After the deadline for filing the FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (a) those applications accepted for filing (including FCC account numbers and the licenses for which they applied); (b) those applications rejected; and (c) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

35. As described more fully in the Commission's Rules, after the January 20, 2000, short form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.* change their license selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).

C. Upfront Payments—Due February 7, 2000

36. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159. All upfront payments must be received at Mellon Bank in Pittsburgh, PA, by 6:00 p.m. ET on February 7, 2000.

Please note that:

All payments must be made in U.S. dollars.

All payments must be made by wire transfer.

Upfront payments for Auction No. 26 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.

Failure to deliver the upfront payment by the February 7, 2000 deadline will result in dismissal of the application and disqualification from participation on the auction.

(i) Making Auction Payments by Wire Transfer

37. Wire transfer payments must be received by 6:00 p.m. ET on February 7, 2000. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC 911–6878
OBI Field: (Skip one space between each information item)
"AUCTIONPAY"
TAXPAYER IDENTIFICATION NO. (Same as FCC Form 159, block 26)
PAYMENT TYPE CODE (enter "A26U")
FCC CODE 1 (same as FCC Form 159, block 23A: "26")
PAYER NAME (same as FCC Form 159, block 2)
LOCKBOX NO. #358400

Note: The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

38. Applicants must fax a completed FCC Form 159 to Mellon Bank at (412) 236–5702 at least one hour before placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer—Auction Payment for Auction Event No. 26." bidders may confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.

(ii) FCC Form 159

39. A completed FCC Remittance Advice Form (FCC Form 159) must accompany each upfront payment. Proper completion of FCC Form 159 is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment C.

(iii) Amount of Upfront Payment

40. In the *Part 1 Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making*, the Commission delegated to the Bureau the authority and discretion to determine an appropriate upfront payment for each license being auctioned. In the Upper Bands Public Notice, the Bureau proposed upfront payments for the Upper Bands Auction. Specifically, the Bureau proposed calculating the upfront payment on a license-by-license basis, using the following formula:

$.0008 * Pops (the result rounded to the nearest hundred for levels below $10,000 and to the nearest thousand for levels above $10,000) with a minimum of no less than $2,500 per license.

41. Commenters request the adoption of a different upfront payment formula. They claim that upfront payments failing to adequately account for levels of incumbency are not a rational method of ensuring the bona fides of bidders, but rather, a penalty against prospective bidders. Commenters conclude that upfront payments for each license should reflect incumbency levels. Accordingly the commenters ask that the Commission adopt a formula similar to the 900 MHz SMR Auction, whereby incumbency levels are subtracted from the pops prior to formulating the payment.

42. Although the Commission rejects the commenters' request to include incumbency levels on a license-by-license basis in the upfront payment formula, it recognizes that the proposed

formula should be adjusted to reflect generally high levels of incumbency in the service. Upon re-examination of the proposed formula, the Commission will modify it as follows:

$.0004 * Pops (the result rounded to the nearest hundred for levels below $10,000 and to the nearest thousand for levels about $10,000) with a minimum of no less than $2,500 per license.

43. The revised formula cuts in half the initial proposal for upfront payments but retains the $2,500 minimum level. The upfront payment is a refundable deposit meant to help ensure sincere bidding and to establish initial eligibility levels for use with the activity rules discussed in section 4.A.ii. Incorporating incumbency calculations for each of the 2,499 licenses in the auction would be an overly complex and burdensome process that would not further the purpose of an upfront payment, and as such, a general reduction in the formula is a more appropriate action.

44. Please note that upfront payments are not attributed to specific licenses, but instead will be translated to bidding units to define a bidder's maximum bidding eligibility. For Auction No. 26, the amount of the upfront payment will be translated into bidding units on a one-to-one basis, *e.g.*, a $25,000 upfront payment provides the bidder with 25,000 bidding units. The total upfront payment defines the maximum amount of bidding units on which the applicant will be permitted to bid (including standing high bids) in any single round of bidding. Thus, an applicant does not have to make an upfront payment to cover all licenses for which the applicant has selected on FCC form 175, but rather to cover the maximum number of bidding units that are associated with licenses on which the bidder wishes to place bids and hold high bids at any given time.

45. In order to be able to place a bid on a license, in addition to having specified that license on the FCC Form 175, a bidder must have an eligibility level that meets or exceeds the number of bidding units assigned to that license. At a minimum, an applicant's total upfront payment must be enough to establish eligibility to bid on at least one of the licenses applied for on the FCC Form 175, or else the applicant will not be eligible to participate in the auction.

46. In calculating its upfront payment amount, an applicant should determine the *maximum* number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all licenses on which it seeks to bid in any given round. Bidders should check their calculations carefully as there is no provision for increasing a bidder's maximum eligibility after the upfront payment deadline.

Note: An applicant may, on its FCC Form 175, apply for every license being offered, but its actual bidding in any round will be limited by the bidding units reflected in its upfront payment.

(iv) Applicant's Wire Transfer Information for Purposes of Refunds

47. To ensure that refunds are processed in an expeditious manner, the Commission is requesting that all pertinent information be supplied to the FCC no later than February 7, 2000. Should the payer fail to submit the requested information, the refund will be returned to the original payer. The Commission will use wire transfers for all Auction No. 26 refunds. Please fax Wire Transfer Instructions to the FCC, Financial Operations Center, Auctions Accounting Group. ATTN: Michelle Bennett or Gail Glasser, at (202) 418–2843. For additional information please call (202) 418–1995.

Name of Bank
ABA Number
Contact and Phone Number
Account Number to Credit
Name of Account Holder
Correspondent Bank (if applicable)
ABA Number
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in 5.D., *infra*.

D. Auction Registration

48. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and that have timely submitted upfront payments sufficient to make them eligible to did on at least one of the licenses for which they applied.

49. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, each containing part of the confidential identification codes required to place bids. These mailings will be sent only to the contact person at the applicant address listed in the FCC Form 175.

50. Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Friday, February 18, 2000 should contact the Auctions Hotline at 1–(888) 225–5322 (option #2) or (717) 338–2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

51. Qualified bidders should note that lost login codes, passwords or bidder identification numbers can be replaced only by appearing *in person* at the FCC Auction Headquarters located at 445 12th St., Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacement codes. Qualified bidders requiring replacement codes must call technical support prior to arriving at the FCC to arrange preparation of new codes.

E. Remote Electronic Bidding Software

52. Qualified bidders are allowed to bid electronically or telephonically. Those choosing to bid electronically must purchase remote electronic bidding software for $175.00 by February 11, 2000. (Auction software is tailored to a specific auction, so software from prior auctions will not work for Auction No. 26.) A software order form is included in this public notice. If bidding telephonically, the appropriate phone number will be supplied in the second Federal Express mailing of confidential login codes.

F. Auction Seminar

53. On January 7, 2000, the FCC will sponsor a free seminar for the Upper Bands Auction at the Federal Communications Commission, located at 445 12th Street, S.W., Washington, D.C. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the Paging Upper Band service and auction rules. The seminar will also provide a unique opportunity for prospective bidders to ask questions of FCC staff.

54. To register, complete the registration form included with this Public Notice and submit it by Wednesday, January 5, 2000. Registrations are accepted on a first-come, first-served basis.

G. Mock Auction

55. All applicants whose FCC form 175 and 175–S have been accepted for filing will be eligible to participate in a mock auction on February 22, 2000. The mock auction will enable applicants to become familiar with the electronic software prior to the auction. Free demonstration software will be available for use in the mock auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

4. Auction Event

56. The first round of the auction will begin on February 24, 2000. The initial round schedule will be announced in a Public Notice listing the qualified bidders, to be released approximately 10 days before the start of the auction.

A. Auction Structure

(i) Simultaneous Multiple Round Auction

57. In the *Upper Bands Public Notice,* the Commission proposed to award the 2,499 licenses in the Upper Bands in a single, simultaneous multiple round auction. One commenter requests that the Commission conduct auctions for the lower band frequencies before it conducts auctions for the 929 MHz and 931 MHz frequencies. This commenter argues that this sequence of auctions would reduce the economic hardship on small carriers on the lower bands that have been subject to the application freeze pending the start of any auctions. The Commission notes that the commenter made similar requests in WT Docket No. 96–18 and PR Docket No. 93–253.

58. In the *Paging Reconsideration Order,* the Commission directed the Bureau to resolve this issue after receiving comments pursuant to the release of the *Upper Bands Public Notice.* The commenter claim of general economic hardship for some licensees fails to reach the level of a compelling reason for altering its auction sequence at this juncture. Moreover, although the Commission has corrected the paging information database for the upper bands, the process of correcting the lower bands database remains. Auctioning the lower bands first under these circumstances would seriously delay the paging auctions. By auctioning the upper bands first, the Commission satisfies its statutory obligation to provide fast and efficient communications service to the public.

59. Commenters further request that if the Upper Bands Auction occurs first, the Bureau should break the licenses up into smaller regional areas prior to auction and provide for five auctions instead of one. The Commission concludes that it is operationally feasible and appropriate to auction all 2,499 Upper Bands licenses through a single, simultaneous multiple round auction. Enhancements to the Commission's Automated Auction System software will allow bidders to easily view and access the licenses in Auction 26, including license group viewing options and search and sort capabilities. The commenter has failed to persuade us that the current structure would be burdensome or harmful to potential bidders. An auction of this nature provides for an economy of scale, whereas having five separate auctions could cause significant administrative burdens, to participants in multiple auctions and unnecessarily protract the auction process. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction. This approach, the Commission believes, allows bidders to take advantage of any synergies that exist among licenses and is most administratively efficient.

(ii) Maximum Eligibility and Activity Rules

60. In the *Upper Bands Public Notice,* the Commission proposed that the amount of the upfront payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for each bidder. The Commission received no comments on this issue.

61. For the Upper Bands Auction the Bureau will adopt this proposal. The amount of the upfront payment submitted by a bidder determines the initial maximum eligibility (in bidding units) for each bidder. Note again that upfront payments are not attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility. The total upfront payment defines the maximum number of bidding units on which the applicant will initially be permitted to bid. As there is no provision for increasing a bidder's maximum eligibility during the course of an auction (as described under "Auction Stages" as set forth in part 4.A.(iv)), prospective bidders are cautioned to calculate their upfront payments carefully.

62. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their maximum eligibility during each round of the auction.

63. A bidder is considered active on a license in the current round if it is either the high bidder at the end of the previous bidding round and does not withdraw the high bid in the current round, or if it submits an acceptable bid in the current fund (*see* "Minimum Accepted Bids" in Part 4.B.(iii), *infra*). A bidder's activity level in a round is the sum of the bidding units associated with licenses on which the bidder is active. The minimum required activity level is expressed as a percentage of the bidder's maximum bidding eligibility, and increases as the auction progresses. Because these procedures have proven successful in maintaining the pace of previous auctions as set forth under "Auction Stages" in Part 4.A.(iv) and "Stage Transitions" in Part 4.A.(v), *infra,* the Commission adopts them for the Upper Bands Auction.

(iii) Activity Rule Waivers and Reducing Eligibility

64. In the *Upper Bands Public Notice,* the Commission proposed that each bidder in the auction would be provided five activity rule waivers that may be used in any round during the course of the auction. The commenter objects to this proposal and instead requests that the Commission allocate activity rule waivers for each stage of the auction (*e.g.,* two or three per stage), with the caveat that any unused waivers could not be carried over to a subsequent stage. The commenter claims that this approach would give applicants sufficient flexibility consistent with the Commission's goals but would eliminate the use of waivers to keep the auction open for an inordinate period of time.

65. Based upon its experience in previous auctions, the Commission adopts its proposal that each bidder be provide five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. The Commission is satisfied that its practice of providing five waivers over the course of the auction provides a sufficient number of waivers and maximum flexibility to the bidders, while safeguarding the integrity of the auction system. The Commission sees no evidence to support commenter's claim that the use of waivers under the guidelines could delay the closing of the auction rather than stimulate participation.

66. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (a) there are no activity rule waivers available; or (b) bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

67. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in "Auction Stages" (*see* Part 4.A.(iv)). Once eligibility had been reduced, a bidder will not be presented to regain its lost bidding eligibility.

68. Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

(iv) Auction Stages

69. The Commission concludes that the auction will be composed of three States, which are each defined by an increasing activity rule. The Commission will adopt its proposals for the activity rules. Paragraphs 70 through 73 provide activity levels for each stage of the auction. The Commission reserves the discretion to further alter the activity percentages before and/or during the auction.

70. *Stage One*: During the first stage of the auction, a bidder desiring to maintain its current eligibility will be required to be active on licenses that represent at least 80 percent of its current bidding eligibility in each bidding round. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by five-fourths (5/4).

71. *Stage Two*: During the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage Two, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by ten-ninths (10/9).

72. *Stage Three*: During the third stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. Failure to maintain the required activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). In this stage, reduced eligibility for the next round will be calculated by multiplying the sum of bidding units of the bidder's standing high bids and valid bids during the current round by fifty-fortyninths (50/49).

CAUTION: Since activity requirements increase in each auction stage, bidders must carefully check their current activity during the bidding period of the first round following a stage transition. This is especially critical for bidders that have standing high bids and do not plan to submit new bids. In past auctions, some bidders have inadvertently lost bidding eligibility or used an activity rule waiver because they did not re-verify their activity status at stage transitions. Bidders may check their activity against the required minimum activity level by using the bidding software's bidding module.

73. Because the foregoing procedures have proven successful in maintaining proper pace in previous auctions, the Commission adopts them for the Upper Bands Auction.

(v) Stage Transitions

74. In the *Upper Bands Public Notice*, the Commission proposed that the auction would advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below 10 percent for three consecutive rounds of bidding in each Stage. However, the Commission further proposed that the Bureau would retain the discretion to change stages unilaterally by announcement during the auction. This determination, would be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Commission received no comments on this subject.

75. The Commission adopts its proposal. Thus, the auction will start in Stage One. Under the Commission's general guidelines it will advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive founds of bidding, the high bid has increased on 10 percent or less of the licenses being auctioned (as measured in bidding units). However, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Commission believes that these stage transition rules, having proven successful in prior auctions, are appropriate for use in the Paging Upper Bands Auction.

(vi) Auction Stopping Rules

76. In the *Paging Reconsideration Order*, the Commission upheld the hybrid simultaneous/license-by-license stopping rule that had been adopted for the paging auctions in the *Paging Second Report and Order*, but retained discretion for the Bureau to use another stopping rule after seeking further comment on this issue in the pre-auction process. For the Upper Bands Auction, the Bureau proposed to employ a simultaneous stopping rule. The Bureau concluded that its proposal to conduct a series of auctions for the upper and lower bands would eliminate the risk of unnecessarily protracted auctions, and likewise, the need for a hybrid-stopping rule. The Commission also sought comment on a modified version of the simultaneous stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping. The Bureau further

sought comment on whether this modified stopping rule should be used unilaterally or only in stage three of the auction.

77. The Bureau also proposed retaining the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In addition, the Commission proposed that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Commission proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time.

78. All four commenters support the use of the hybrid license by license stopping rule. Commenters state that the sheer volume of the auction, coupled with the number of encumbered areas requires the modified approach. They claim that there will be numerous MEAs in which the bidding will be light, and even some instances where no bids at all are placed in the first round. Other geographic areas are likely to inspire intense bidding wars. They also urge the use of the hybrid rule because the simultaneous stopping rule would encourage speculators.

79. The Commission adopts its proposals concerning the stopping rule. Adoption of these rules, the Commission believes, is most appropriate for the Upper Bands Auction because its experience in prior auctions demonstrates that the simultaneous stopping rule balanced the interests of administrative efficiency and maximum bidder participation. The substitutability between and among licenses in different geographic areas and the importance of preserving the ability of bidders to pursue backup strategies support the use of a simultaneous stopping rule. Further, the Commission also can regulate the pace of the auction by conducting more bidding rounds per day, employing bid increments that reflect activity levels as specific markets and accelerating stage changes.

80. Thus, bidding will remain open on all licenses until bidding stops on every license. The auction will close for all licenses when one round passes during which no bidder submits a new acceptable bid on any license, applies a proactive waiver, or withdraws a previous high bid. After the first such round, bidding closes simultaneously on all licenses. In addition, the Bureau retains the discretion to close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this stopping rule procedure. The Commission will notify bidders in advance of implementing any change to its simultaneous stopping rule.

81. The Bureau also retains the discretion to keep the auction open even if no new acceptable bids or proactive waivers are submitted, and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if it has any left).

82. Further, in its discretion, the Bureau reserves the right to invoke the "special stopping rule." If the Commission invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. Before exercising this option, the Commission is likely to attempt to increase the pace of the auction by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or adjusting the amount of the minimum bid increments for the licenses.

(vii) Auction Delay, Suspension, or Cancellation

83. In the *Paging Upper Bands Public Notice*, the Commission proposed that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding.

84. Because this approach has proven effective in resolving exigent circumstances in previous auctions, the Commission will adopt its proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. The Commission emphasizes that exercise of this authority is solely within the discretion of the bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

B. Bidding Procedures

(I) Round Structure

85. The initial bidding schedule will be announced by public notice at least one week before the start of the auction, and will be included in the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results. Details regarding round results formats and locations will be included in the bidder information package.

86. The Commission has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Commission may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

(II) Reserve Price or Minimum Opening Bid

a. Background

87. The Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when Commission licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission directed the Wireless Telecommunications Bureau ("Bureau") to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each

auction. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on valuation of the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

88. In the *Upper Bands Public Notice*, the Bureau proposed to establish minimum opening bids for the Upper Bands Auction and to retain discretion to lower the minimum opening bids. Specifically, for Auction No. 26, the Commission proposed the following license-by-license formulas for calculating minimum opening bids, based on the population ("pops") of the BTA:

$.001* Pops (the result to the nearest hundred for levels below $10,000 and to the nearest thousand for levels above $10,000) with a minimum of no less than $2,500 per license.

In the alternative, the Bureau sought comment on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

b. Discussion

89. All of the commenters support minimum bids instead of reserve pricing, but request the Commission to take into account incumbency levels in its calculation formula. The commenters argue that the current formula inflates the market prices of the licenses by ignoring the level of incumbency. Moreover, they claim that this minimum bid could actually be the only bid issued in many markets.

90. The Commission will adopt minimum opening bids for the licenses in the Upper Bands Auction, which are reducible at the discretion of the Bureau. Congress has enacted a presumption that unless the Commission determines otherwise, minimum opening bids or reserve prices are in the public interest. Based on its experience in using minimum opening bids in other auctions, the Commission believes that minimum opening bids speed the course of the auction and ensure that valuable assets are not sold for nominal prices, without unduly interfering with the efficient assignment of licenses.

91. The commenters' arguments regarding the encumbrance of many of the paging licenses have convinced the Commission that some proposed minimum bid values could be too high, and thus the Commission will establish minimum opening bids that are in many cases lower than its first proposed. Accordingly, the Commission will use the following formula for calculating minimum opening bids:

$.0005* Pops (the result rounded to the nearest hundred for levels below $10,000 and to the nearest thousand for levels above $10,000) with a minimum of no less than $2,500 per license.

92. The Commission does not accept the commenters' suggestion formula setting minimum opening bids using a license-by-license encumbrance adjustment. The Commission finds that such an approach would be unnecessarily complex and inappropriate. Because the Commission's minimum opening bids serve primarily as a starting point for bidding, and do not play the role of traditional reserve prices of maximizing revenue raised in the auction, there is no need to base them upon complicated formulas involving considerable license-specific information. Moreover, simple formulas do not disadvantage any prospective bidders, because the Commission does not expect generally that winning bids will be equal to the minimum opening values, but rather well above those opening values.

93. In addition, the Commission has not previously established minimum opening bid formulas on license-specific information such as encumbrance. While the Commission has differentiated among broad groups of licenses in setting minimum bid formulas in some past auctions (*e.g.*, in the first LMDS auction, where the Commission established three "tiers," for the A and B Block licenses), here it finds there is no need to establish groups with differing formulas. In particular, the Commission is aware of no significant difference in the average encumbrance of the 929 and 931 licenses, or other factors that would suggest treating the 929 and 931 licenses differently. Finally, the Commission notes that license-by-license encumbrance cannot be determined with certainty, but must be estimated using assumptions about relevant factors such as the height of towers and power levels being used by incumbents. Thus, it is not clear that a more complex, license-by-license encumbrance would necessarily produce superior information upon which to base minimum opening bids.

94. The Commission concludes that the adopted formula presented here best meets the objectives of its authority in establishing reasonable minimum opening bids. The Commission has noted in the past that the reserve price and minimum opening bid provision is not a requirement to minimize auction revenue but rather a protection against assigning licenses at unacceptably low prices and that it must balance the revenue raising objective against its other public interest objectives in setting the minimum bid level. For the sake of auction integrity and fairness, minimum opening bids must be set in a manner that is consistent across licenses.

95. As a final safeguard against unduly high pricing, minimum opening bids are reducible at the discretion of the Bureau. This will allow the Bureau flexibility to adjust the minimum opening bids if circumstances warrant. The Commission emphasizes, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders lose all waivers and begin to lose substantial eligibility. During the course of the auction, the Bureau will not entertain any bidder requests to reduce the minimum opening bid on specific licenses.

(III) Minimum Accepted Bids

96. In the *Upper Bands Public Notice*, the Commission proposed to use a smoothing methodology to calculate minimum bid increments. The Commission further proposed to retain the discretion to change the minimum bid increment if circumstances so dictate. One commenter commented on this particular issue. The commenter claims that the Bureau's approach will create unnecessarily large minimum bid increments because the increase would be based primarily on the number of bids. The result, the commenter says, would be that licensees would pay significantly more for authorizations without due justification.

97. The Commission disagrees with the commenter's theory and declines to accept it for the Upper Bands Auction. Instead, the Commission will adopt its proposal for a smoothing formula. The smoothing methodology is designed to vary the increment for a given license between a maximum and minimum value based on the bidding activity on that license. This methodology allows the increments to be tailored to the activity level of a license, decreasing the time it takes for active licenses to reach their final value. The formula used to calculate this increment is included as Attachment J.

98. The Commission adopts its proposal of initial values for the maximum of 0.2 or 20% of the license value, and a minimum of 0.1 or 10% of the license value. The Bureau retains the discretion to change the minimum bid increment if it determines that circumstances so dictate, such as raising the minimum increment toward the end of the auction to enable bids to reach their final values more quickly. The Bureau will do so by announcement in the Automated Auction System. Under its discretion the Bureau may also implement an absolute dollar floor for the bid increment to further facilitate a timely close of the auction. The Bureau may also use its discretion to adjust the minimum bid increment without prior notice of circumstances warrant. As an alternative approach, the Bureau may, in its discretion, adjust the minimum bid increment gradually over a number of rounds as opposed to single large changes in the minimum bid increment (*e.g.*, by raising the increment floor by one percent every round over the course of ten rounds). The Bureau also retains the discretion to use alternate methodologies for the Upper Band Auction if circumstances warrant.

(IV) High Bids

99. Each bid will be date- and time-stamped when it is entered into the FCC computer system. In the event of tie bids, the Commission will identify the high bidder on the basis of the order in which the Commission receives bids. The bidding software allows bidders to make multiple submissions in a round. As each bid is individually date- and time-stamped according to when it was submitted, bids submitted by a bidder earlier in a round will have an earlier date and time stamp than bids submitted later in a round.

(V) Bidding

100. During a bidding round, a bidder may submit bids for as many licenses as it wishes, subject to its eligibility, as well as withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round, and the date- and time-stamp of that bid reflects the latest time the bid was submitted.

101. Please note that all bidding will take place remotely either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when handling bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid, by placing their calls well in advance of the close of a round, because four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 26.

102. A bidder's ability to bid on specific licenses in the first round of the auction is determined by two factors: (1) The licenses applied for on FCC Form 175; and (2) the upfront payment amount deposited. The bid submission screens will be tailored for each bidder to include only those licenses for which the bidder applied on its FCC Form 175. A bidder also has the option to further tailor its bid submission screens to call up specified groups of licenses.

103. The bidding software requires each bidder to login to the FCC auction system during the bidding round using the FCC account number, bidder identification number, and the confidential security codes provided in the registration materials. Bidders are strongly encouraged to download and print bid confirmations *after* they submit their bids.

104. The bid entry screen of the Automated Auction System software for the Upper Band auction allows bidders to place multiple increment bids which will let bidders increase high bids from one to nine bid increments. A single bid increment is defined as the difference between the standing high bid and the minimum acceptable bid for a license.

105. To place a bid on a license, the bidder must enter a whole number between 1 and 9 in the bid increment multiplier (Bid Mult) field. This value will determine the amount of the bid (Amount Bid) by multiplying the bid increment multiplier by the bid increment and adding the result to the high bid amount according to the following formula:

Amount Bid = High Bid + (Bid Mult * Bid Increment)

Thus, bidders may place a bid that exceeds the standing high bid by between one and nine times the bid increment. For example, to bid the minimum acceptable bid, which is equal to one bid increment, a bidder will enter "1" in the bid increment multiplier column and press submit.

106. For any license on which the FCC is designated as the high bidder (*i.e.*, a license that has not yet received a bid in the auction or where the high bid was withdrawn and a new bid has not yet been placed), bidders will be limited to bidding only the minimum acceptable bid. In both of these cases no increment exists for the licenses, and bidders should enter "1" in the Bid Mult field. Note that in this case, any whole number between 1 and 9 entered in the multiplier column will result in a bid value at the minimum acceptable bid amount. Finally, bidders are cautioned in entering numbers in the Bid Mult field because, as explained in the following section, a high bidder that withdraws its standing high bid from a previous round, even if mistakenly or erroneously made, is subject to bid withdrawal payments.

(VI) Bid Removal and Bid Withdrawal

107. In the *Upper Bands Public Notice*, the Commission proposed bid removal and bid withdrawal rules. With respect to bid withdrawals, the Commission proposed limiting each bidder to withdrawals in no more than two rounds during the course of the auction. The two rounds in which withdrawals are utilized, the Commission proposed, would be at the bidder's discretion. The commenter objects to this proposal because the volume of licenses being auctioned might require bidders to utilize more withdrawals. The Commission rejects the commenter's request.

108. In previous auctions, the Commission has detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While the Commission continues to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various geographic area licenses in combination, the Commission concludes that, for the Upper Bands Auction, adoption of a limit on their use to two rounds is the most appropriate outcome. By doing so the Commission believes it strikes a reasonable compromise that will allow bidders to use withdrawals. The Commission's decision on this issue is based upon its experience in prior auctions, particularly the PCS D, E and F block auction, 800 MHz SMR auction, and is in no way a reflection of its view regarding the likelihood of any speculation or "gaming" in this Upper Bands Auction.

109. The Bureau will therefore limit the number of rounds in which bidders may place withdrawals to two rounds. These rounds will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in either of these rounds. Withdrawals will still be subject to the bid withdrawal payments specified in 47 CFR 1.2104(g), and 1.2109. Bidders should note that abuse of the

Commission's bid withdrawal procedures could result in the denial of the ability to bid on a market. If a high bid is withdrawn, the license will be offered in the next round at the second highest bid price, which may be less than, or equal to, in the case of tie bids, the amount of the withdrawn bid, without any bid increment. The Commission will serve as a "place holder" on the license until a new acceptable bid is submitted on that license.

a. Procedures

110. Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the software, a bidder may effectively "unsubmit" any bid placed with that round. A bidder removing a bid placed in the same round is not subject to withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed. This procedure, about which the Commission received no comments, will enhance bidder flexibility during the auction. Therefore, the Commission adopts these procedures for the Upper Bands Auction.

111. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the "withdraw bid" function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payments specified in 47 CFR 1.2104(g) and 1.2109. The procedure for withdrawing a bid and receiving a withdrawal confirmation is essentially the same as the bidding procedure described in "High Bids," Part 4.B.(iv)

b. Calculation

112. Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction. Specifically, a bidder ("Bidder X") that withdraws a high bid during the course of an auction is subject to bid withdrawal payment equal to the difference between the amount withdrawn and the amount of the subsequent winning bid. If a high bid is withdrawn on a license that remains unsold at the close of the auction, Bidder X will be required to make an interim payment equal to three (3) percent of the net amount of the withdrawn bid. This payment amount is deducted from any upfront payments or down payments that Bidder X has deposited with the Commission. If, in a subsequent auction, that license receives a valid bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and Bidder X may request a refund of the interim three (3) percent payment. If, in a subsequent auction, the selling price for that license is less than Bidder X's withdrawn bid amount, then Bidder X will be required to make a final bid withdrawal payment equal to either the difference between Bidder X's net withdrawn bid and the subsequent net winning bid, or the difference between Bidder X's gross withdrawn bid and the subsequent gross winning bid, whichever is less.

(VII) Round Results

113. All of the commenters addressing the issue of disclosure support the Commission's proposal to disclose bidder identity, bid amounts, and withdrawal information during the course of the auction. The bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the FCC will compile reports of all bids placed, bids withdrawn, current high bids, new minimum accepted bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 26 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

(VIII) Auction Announcements

114. The FCC will use auction announcements to announce items such as schedule changes and stage transitions. All FCC auction announcements will be available on the FCC remote electronic bidding system, as well as the Internet and the FCC Bulletin Board System.

(IX) Other Matters

115. As noted in 3.B., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and revision of exhibits. Filers must make these changes on-line, and submit a letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554 (and mail a separate copy to Arthur Lechtman, Auctions and Industry Analysis Division), briefly summarizing the changes. Questions about other changes should be directed to Arthur Lechtman of the FCC Auctions and industry Analysis Division at (202) 418–0660.

5. Post-Auction Procedures

A. Down Payments and Withdrawn Bid Payments

116. After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bids and bidders for each license, and listing withdrawn bid payments due.

117. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable bidding credits). *See* 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any withdrawn bid amounts due under 47 CFR 1.2104(g), as discussed in "Bid Removal and Bid Withdrawal," part 4.B.(VI). (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Long-Form Application

118. Within ten business days after release of the auction closing notice, winning bidders must electronically submit a properly completed long-form application and required exhibits for each Upper Band license won through the auction. Winning bidders that are small businesses or very small businesses must include an exhibit demonstrating their eligibility for bidding credits. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

C. Default and Disqualification

119. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidders (in descending order) at their final bids. *See* 47 CFR 1.2109(b) and (c). In addition, if a default or

disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. *See* 47 CFR 1.2109(d).

D. Refund of Remaining Upfront Payment Balance

120. All applicants that submitted upfront payments but were not winning bidders for an Upper Bands license may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

121. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. However, bidders that reduce their eligibility and remain in the auction are not eligible for partial refunds of upfront payments until the close of the auction. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request which includes wire transfer instructions, a Taxpayer Identification Number ("TIN"), and a copy of their bidding eligibility screen print to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Shirley Hanberry, 445 12th Street, S.W., Room 1–A824, Washington, D.C. 20554.

122. Bidders can also fax their request to the Auctions Accounting Group at (202) 418–2843. Once the request has been approved, a refund will be sent to the address provided on the FCC Form 159.

Note: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Michelle Bennett or Gail Glasser at (202) 418–1995.

Federal Communications Commission.

Thomas Sugrue,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 99–23123 Filed 9–3–99; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 revised information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the collection requirements for participation in the National Flood Insurance Program (NFIP) Community Rating System (CRS).

SUPPLEMENTARY INFORMATION: The NFIP began in 1968. A central element in the NFIP is the promotion and implementation of a sound local floodplain management program. Communities must adopt minimum floodplain management standards in order to participate in the NFIP and receive the benefits of flood insurance. The Community Rating System (CRS) was designed by FEMA to encourage, through the use of flood insurance premium discounts, communities and states to undertake activities that will mitigate flooding and flood damage, beyond the minimum standards for NFIP participation. The National Flood Insurance Reform Act of 1994 codified the CRS.

The NFIP/CRS Coordinator's Manual includes a schedule and commentary. The Application Worksheets and CRS Application are published separately. Communities will use the manuals to apply for activity points leading up to a CRS rating and commensurate flood insurance premium discounts. The schedule describes the floodplain management and insurance activities available to qualifying communities that undertake the selected additional activities that will reduce flood losses. To apply, communities submit to FEMA the attached application worksheets and requisite documentation. Once approved, the applications are reviewed and field verified by Insurance Service Organization (ISO), Commercial Risk Services, Inc., an insurance industry service organization with varied experience, especially with community fire rating.

Collection of Information

Title: Community Rating System (CRS) Program—Application Worksheets and Commentary.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0195.

Form Numbers: FEMA Form 81–83, FIA 15.

Abstract: The CRS Program establishes a system for FEMA to grade communities' floodplain management activities to determine flood insurance rates for communities. Communities exercising floodplain management activities that exceed Federal minimum standards qualify for lower insurance rates.

The January 1999 edition of the NFIP CRS Coordinator's Manual contains instructions for preparing the application worksheets that will be used to apply to the CRS Program for the 1999 through 2001 calendar years. The Application Worksheets and CRS Application are published separately. Communities will use the manuals to apply for activity points leading up to a CRS rating and commensurate flood insurance premium discounts. The schedule describes the floodplain management and insurance activities available to qualifying communities that undertake the selected additional activities that will reduce flood losses. Annually, all CRS participating communities must certify they are maintaining the activities for which they receive credit.

Affected Public: State, Local, or Tribal Government.

Estimated Total Annual Burden Hours: 9,260.

FEMA forms	Number of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A B C)
81–83 (New, Modified and Cycle Applications)	220	1	29	6,380
81–83 (Recertification Applications)	720	1	4	2,880
Total	940			9,260

Estimated Cost: There is no cost to communities for this collection other than staff time, which, is part of their normal floodplain management duties.

Comments

Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or e:mail muriel.anderson@fema.gov.

FOR FURTHER INFORMATION CONTACT: Contact Bret Gates, CRS Coordinator, Mitigation Directorate, Federal Emergency Management Agency, at (202) 646–4133, or by e:mail at bret.gates@fema.gov for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information.

Dated: August 25, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–23180 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 revised information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed revision of existing information from applicants seeking grant funding through the Hazard Mitigation Grant Program (HMGP). The information collection described in this notice is the State Administrative Plan for the Hazard Mitigation Grant Program.

SUPPLEMENTARY INFORMATION: The Program was created with the passing of the Stafford Act in November of 1988. The Program, authorized by Section 404 of the Act, provides States and local governments financial assistance to implement measures that will permanently reduce or eliminate future damages and losses from natural hazards.

In December 1993 the President signed the Hazard Mitigation and Relocation Assistance Act that amended Section 404. This amendment increased the cost share of the HMGP to a maximum of 75 percent Federal and increased the amount of funding available for the Program to 15 percent of all other disaster grants. The amendment also imposed new implementing requirements on acquisition and relocation projects funded under the Program. FEMA published an interim rule in the **Federal Register** on May 11, 1994, amending the original program regulations published in May 1989, to implement the changes.

The statutory changes combined with the Administration's National Performance Review initiative provided an opportunity for FEMA to evaluate the overall program and make improvements. The 1993 increase in program funding significantly heightened public interest in the Program and has served to underscore the need to clarify HGMP eligibility, simplify program administration, and expedite grant award and implementation.

The changes represented here are only a first step in the ongoing process to enhance the program. FEMA is working with its customers to develop and improve training and guidance to accompany the new regulations. Successful implementation of the changes will require clear guidance for both FEMA staff and State grantees.

Collection of Information

Title: State Administrative Plan for the Hazard Mitigation Grant Program.

Type of Information Collection: Reinstatement of a previously approved collection.

OMB Number: 3067–0208.

Abstract: The State must have an approved State Hazard Mitigation Grant Program (HMGP) Administrative Plan to be eligible to receive funds under HMGP. This plan outlines the procedures for administration of the program and management of program funds. The plan is revised after each major disaster declaration to take into account changes in the administration of the program or in current program policy. The plan should be incorporated as either a separate chapter or annex to the state's emergency response or operations plan. The Administrative Plan must include: (1) Designation of the state agency that will act as grantee; (2) identification of the State Hazard Mitigation Officer responsible for all matters related to the program; (3) determination of staffing requirements and sources of staff necessary for administration of the program, and (4) establish procedures to: (i) comply with administrative requirements of 44 CFR parts 13 and 206; (ii) identify and notify potential applicants of the availability of the program; (iii) ensure that potential applicants are provided information on the application process, program eligibility, and key deadlines; (iv) provide technical assistance as required to applicants and subgrantees; (v) gather environmental data and/or conduct environmental reviews; (vi) process requests for advances of funds and reimbursement; (vii) monitor and evaluate the progress and completion of the funded projects; (viii) provide quarterly performance and financial reports to the Regional Director; (ix) process appeals; and (x) comply with audit requirements of 44 CFR 14.

FEMA forms	No. of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A×B×C)
Affected Public: State, Local or Tribal government, and not for profit institutions.				
Estimated Total Annual Burden Hours: 4,600.				
State Admin. Plan	25	[1] 46	4	4,600
Total	25	46	4	4,600

[1] Average number of declared disasters per year.

Estimated Cost. Cost to Federal government for collecting information is $10,000.

Comments

Written comments are solicited to:

(a) Evaluate whether the proposed data collections and reporting requirements are necessary for the proper performance of FEMA's functions and program activities, including whether the data have practical utility;

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed data collections and reporting requirements;

(c) Determine the estimated cost of the proposed data collections and reporting requirements to the respondents;

(d) Enhance the quality, utility, and clarity of the information to be collected; and,

(e) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625, FAX number (202) 646–3524, or email address: muriel.anderson@fema.gov.

FOR FURTHER INFORMATION CONTACT: Contact Catherine Young, Mitigation Directorate at (202) 646–4541 for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information.

Dated: August 25, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–23182 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 revised information collections. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the proposed revision of existing information from applicants seeking grant funding through the Hazard Mitigation Grant Program (HMGP). The type of information to be collected is the Hazard Mitigation Grant Program 409 Plans.

SUPPLEMENTARY INFORMATION: The Hazard Mitigation Grant Program (HGMP) was created with the passage of the Stafford Act in November of 1988. The Program, authorized by Section 404 of the Act, provides States and local governments financial assistance to implement measures that will permanently reduce or eliminate future damages and losses from natural hazards.

In December 1993 the President signed the Hazard Mitigation and Relocation Assistance Act that amended Section 404. This amendment increased the cost share of the HMGP to a maximum of 75 percent Federal and increased the amount of funding available for the Program to 15 percent of all other disaster grants. The amendment also imposed new implementing requirements on acquisition and relocation projects funded under the Program. FEMA published an interim rule in the **Federal Register** on May 11, 1994, amending the original program regulations published in May 1989, to implement the changes.

The statutory changes combined with the Administration's National Performance Review initiative provided an opportunity for FEMA to evaluate the overall program and make improvements. The 1993 increase in program funding significantly heightened public interest in the Program and has served to underscore the need to clarify Program eligibility, simplify program administration, and expedite grant award and implementation.

The changes are only a first step in the ongoing process to enhance the program. FEMA is working with its customers to improve training and guidance. Successful implementation of the changes requires clear guidance for both FEMA staff and State grantees.

Collection of Information

Title: Hazard Mitigation Grant Program 409 Plan.

Type of Information Collection: Reinstatement of a previously approved collection.

OMB Number: 3067–0212.

Abstract: Hazard Mitigation Grant Program 409 Plans. The State must have an approved State Hazard Mitigation Grant Program (HMGP) 409 Plan to be eligible to receive funds under HMGP.

Section 409 of the Stafford Act requires that State and local governments that are recipients of Federal disaster assistance must take steps to evaluate hazards within the disaster area and take appropriate action to mitigate these hazards. FEMA has interpreted this requirement through regulation to mean that State and local governments shall prepare and implement hazard mitigation plans following a declaration for Federal disaster assistance. Regulations have been implemented to streamline, clarify, and simplify this planning requirement. Hazard mitigation plans are updated or expanded at the time a new disaster declaration occurs.

Affected Public: State, Local or Tribal government, and not for profit institutions.

Estimated Total Annual Burden Hours: 4,600.

FEMA forms	No. of respondents (A)	Frequency of response (B)	Hours per response (C)	Annual burden hours (A×B×C)
HMGP 409 Plan	25	[1] 46	4	4,600
Total	25	46	4	4,600

[1] Average number of declared disasters per year.

Comments

Written comments are solicited to:

(a) Evaluate whether the proposed data collections and reporting requirements are necessary for the proper performance of FEMA's functions and program activities, including whether the data have practical utility;

(b) Evaluate the accuracy of the agency's estimate of the burden of the proposed data collections and reporting requirements;

(c) Determine the estimated cost of the proposed data collections and reporting requirements to the respondents;

(d) Enhance the quality, utility, and clarity of the information to be collected; and,

(e) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. Comments should be received within 60 days of the date of this notice.

ADDRESSES: Interested persons should submit written comments to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625, FAX number (202) 646–3524, or email address: muriel.anderson@fema.gov.

FOR FURTHER INFORMATION CONTACT: Contact Catherine Young, Mitigation Directorate at (202) 646–4541 for additional information. Contact Ms. Anderson at (202) 646–2625 for copies of the proposed collection of information.

Dated: August 25, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–23183 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: National Defense Executive Reserve Personal Qualifications Statement.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 3067–0001.

Abstract: The NDER is a Federal government program coordinated by FEMA to become a member of the NDER, individuals with the requisite qualifications must complete an FEMA Form 85–3, National Defense Executive Reserve Personal Qualification Statement. FEMA Form 85–3 is an application form that is used by Federal departments and agencies to fill NDER vacancies and to ensure that individuals are qualified to perform in the assigned emergency positions. FEMA reviews the application form to ensure that the candidates meets all basic membership qualifications for the Executive Reservist; ensures that applicants are not already serving in a Federal department or agency sponsored unit; and in some cases, determines the Federal department or agency best suited for the applicant.

Affected Public: Individual or Households.

Number of Respondents: 50.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 25.

Frequency of Response: On Occasions.

Comments

Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

Dated: August 25, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–23176 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: National Flood Insurance Policy Forms.

Type of Information Collection: Revisions of a currently approved collection.

OMB Number: 3067–0022.

Abstract: In order to provide for the availability of policies for flood insurance, policies are marketed through the facilities of licensed insurance agents or brokers in the various States. Applications from agents or brokers are forwarded to a servicing company designated as fiscal agent by FIA. Upon receipt and examination of

the application and required premium, the servicing company issues the appropriate Federal flood insurance policy.

Affected Public: Individual or Households.

Number of Respondents: 317,610.

Estimated Time per Respondent: FEMA Form 81–16, Flood Insurance Application—12 min.; FEMA Form 81–17, Flood Insurance Cancellation/ Nullification Request—7.5 min.; FEMA Form 81–18, Flood Insurance General Change Endorsement—9 min.; FEMA Form 81–25, V–Zone Risk Factor Form–15 min.; FEMA Form 81–67, Flood Insurance Preferred Risk Policy Application—15 min.; Renewal Premium Notice—3 min..

Estimated Total Annual Burden Hours: 31,718 hours.

Frequency of Response: On Occasions.

Comments

Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

Dated: August 25, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–23177 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: The Declaration Process: Request for Damage Assessment, Federal Disaster Assistance, Cost Share Adjustments, and Loans of the Non-Federal Share.

Type of Information Collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

OMB Number: 3067–0113.

Abstract: Requests for supplemental Federal disaster assistance are submitted to the President through FEMA. Requests for major disaster or emergency declarations, loans of the non-federal share, and cost share adjustments must be made by the Governor or Acting Governor.

Affected Public: Individuals or Households, Non-profit institutions, and State, Local or Tribal Government.

Number of Respondents: 58.

Estimated Time per Respondent: 3 hours.

Estimated Total Annual Burden Hours: 13,224 hours.

Frequency of Response: For each State disaster or emergency declaration request.

Comments

Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email address at muriel.anderson@fema.gov.

Dated: August 23, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–23178 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed information collection to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: National Fire Incident Reporting System (NFIRS)

Type of Information Collection: Reinstatement, with change, of a currently approved collection for which approval has expired.

OMB Number: 3067–0161

Abstract: The NFIRS program provides a mechanism using standardized reporting methods to collect and analyze fire incident data at the Federal, State, and Local levels. Data analysis help local fire departments and States to focus on current problems, predict future problems in their communities, and measure whether their programs are working. It also enables the U.S. Fire Administration (USFA) to identify common trends in collected data that may be applicable to fire problems on a national scale. NFIRS data is used: at the Local level, for setting priorities, targeting resources, and designing fire prevention and education programs specifically suited to the real fire problems of a community or State; at the State level, to justify State budgets and has helped in the passage of important fire and arson related bills; at the National level, to provide feedback reports to States and local fire departments that enable them to better manage and plan for fire protection and prevention programs, to produce the USFA's annual report "Fire in the United States", and other as required reports, to share useful consumer protection information with private concerns and other government agencies, and to perform special studies.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 14,000.

Estimated Time per Respondent: NFIRS–1, Incident Report—1 hour; NFIRS–2, Civilian Casualty Report—55 minutes; NFIRS–3, Fire Service Casualty Report—50 minutes; NFIRS–4, Fire Department Identification—30 minutes; NFIRS–5, Report of Submitted Incidents, 30 minutes; NFIRS-HMI,

Hazardous Material Incident Report—45 minutes.

Estimated Total Annual Burden Hours: 983,000.

Frequency of Response: Quarterly and On Occasion.

Comments

Interested persons are invited to submit written comments on the proposed information collection to the Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Room 316, Washington, DC 20472. Telephone number (202) 646–2625. FAX number (202) 646–3524 or email muriel.anderson@fema.gov.

Dated: August 25, 1999.

Reginald Trujillo,

Director, Program Services Division, Operations Support Directorate.

[FR Doc. 99–23179 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

Open Meeting, Technical Mapping Advisory Council

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of meeting.

SUMMARY: In accordance with § 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. 1, the Federal Emergency Management Agency gives notice that the following meeting will be held:

Name: Technical Mapping Advisory Council.

Date of Meeting: September 13–14, 1999.

Place: Metropolitan Sewer District, 700 West Liberty Street, Louisville, KY.

Times: 8:30 a.m. to 5:00 p.m., both days.

Proposed Agenda:

1. Call to Order and Announcements.
2. Action on Minutes of Previous Meeting.
3. FEMA/MSD Signing of CTC Agreement.
4. Future Conditions Hydrology Discussion.
5. 1999 Annual Report Discussion.
6. A Zone Recommendations.
7. Unique Hazards Recommendations.
8. DFIRM Graphics Review.
9. Update of Map Modernization Funding.
10. New Business.
11. Adjournment.

Status: This meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Michael K. Buckley, P.E., Federal Emergency Management Agency, 500 C Street SW., room 421, Washington, DC 20472, telephone (202) 646–2756 or by facsimile at (202) 646–4596.

SUPPLEMENTARY INFORMATION: This meeting is open to the public with limited seating available on a first-come, first-served basis. Members of the general public who plan to attend the meeting should contact Sally Magee, Federal Emergency Management Agency, 500 C Street SW., room 442, Washington, DC 20472, telephone (202) 646–8242 or by facsimile at (202) 646–4596 on or before September 6, 1999.

Minutes of the meeting will be prepared and will be available upon request 30 days after they have been approved by the next Technical Mapping Advisory Council meeting.

Dated: August 26, 1999.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 99–23175 Filed 9–3–99; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY:

Background.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.14(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT:

A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. West, Chief, Financial Reports Section (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Request for comment on information collection proposals.

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before November 8, 1999.

Discontinuation of the following report:

1. Report title: Commercial Bank Report of Consumer Credit.

Agency form number: FR 2571.

OMB control number: 7100–0080.

Effective Date: Mid-year 2000.

Frequency: Monthly.

Reporters: Commercial Banks.

Annual reporting hours: 2,475 hours.

Estimated average hours per response: 33 minutes.

Number of respondents: 375 commercial banks.

Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 248(a)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2571 collects information on outstanding consumer credit, by type, as of the last business day of the month, from a sample of commercial banks. This survey, however, has become less reliable in recent years. Sales of loan portfolios between banks inside and outside of the FR 2571 sample cause the estimated amount of consumer credit held or securitized by commercial banks to fluctuate sharply relative to that held or securitized by the commercial bank universe. Extensive ad hoc adjustments are often needed to keep the consumer credit data in what is believed to be a reasonable range. The accuracy of these adjustments is unknown until staff benchmark total commercial bank consumer credit to the quarterly Consolidated Reports of Condition and Income (Call Report; FFIEC 031–034).

Current Actions: The Federal Reserve proposes to discontinue the FR 2571, subject to approval of the proposal to extend, with revision, the bank credit reports: the Weekly Report of Assets and Liabilities for Large Banks (FR 2416), the Weekly Report of Selected Assets (FR 2644), and the Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks (FR 2069). In particular, this proposal is dependent on the addition of questions on revolving consumer loans and securitized total and revolving consumer loans to the bank credit reports.

Proposals to approve under OMB delegated authority the extension for three years, with revision the following reports:

1. Report title: Weekly Report of Assets and Liabilities for Large Banks.

Agency form number: FR 2416.

OMB control number: 7100–0075.

Effective Date: Mid-June 2000.

Frequency: Weekly.

Reporters: U.S.-chartered commercial banks.

Annual reporting hours: 18,850.

Estimated average hours per response: 7.25 hours.

Number of respondents: 50.

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 225(a) and 248(a)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

2. Report title: Weekly Report of Selected Assets.

Agency form number: FR 2644.

OMB control number: 7100–0075.

Effective Date: Mid-June 2000.

Frequency: Weekly.

Reporters: U.S.-chartered commercial banks.

Annual reporting hours: 66,924.

Estimated average hours per response: 1.17 hours.

Number of respondents: 1,100.

Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 225(a) and 248(a)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

3. Report title: Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2069.

OMB control number: 7100–0030.

Effective Date: Mid-June 2000.

Frequency: Weekly.

Reporters: U.S. branches and agencies of foreign (non-U.S.) banks.

Annual reporting hours: 27,891.

Estimated average hours per response: 5.83.

Number of respondents: 92.

Small businesses are not affected.

General description of report: This information collection is voluntary (12 U.S.C. 3105(b)(2)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

Abstract: The FR 2416 is a detailed, 43-item balance sheet that covers domestic offices of large U.S.-chartered commercial banks. The FR 2644 collects 11 items covering investments and loans plus total assets and three memorandum items, two that disaggregate total borrowings between bank and nonbank sources and one for mortgage-backed securities. The FR 2069 is a detailed, 28-item balance sheet that covers large U.S. branches and agencies of foreign banks. These reports are collected as of each Wednesday.

These three voluntary reports are mainstays of the Federal Reserve's reporting system from which data for analysis of current banking developments are derived. The FR 2416 is used on a stand-alone basis as the "large domestic bank series." The other two reports are samples for estimating outstandings for the universe, using data for benchmarks from the quarterly commercial bank Consolidated Reports of Condition and Income (FFIEC 031–034; OMB No. 7100–0036) and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No.7100–0032) (Call Reports). All three reports, together with data from other sources, are used for constructing weekly estimates of bank credit, of sources and uses of bank funds, and of a balance sheet for the banking system as a whole. These estimates are used in constructing the bank credit component of the domestic nonfinancial debt aggregate.

The Federal Reserve publishes the data in aggregate form in a statistical release that is followed closely by other government agencies, the banking industry, the financial press, and other users. This weekly H.8 statistical release, "Assets and Liabilities of Commercial Banks in the United States," provides a balance sheet for the banking industry as a whole and disaggregated by its large domestic, small domestic, and foreign related components.

Current Actions: Owing to substantial consolidation in the domestic banking industry since the last report renewal, a considerable shift from FR 2416 to FR 2644 panels would be required to maintain traditional large bank coverage. The Federal Reserve proposes reducing the authorized size of the FR 2416 panel. Several reporters currently on the branch and agency (FR 2069) panel would be dropped because most of their assets have been shifted to other reporters.

The Federal Reserve proposes a net addition of three items to the FR 2416 and the FR 2644; these three items are currently reported on the monthly

Commercial Bank Survey of Consumer Credit (FR 2571; OMB No. 7100–0080). The Federal Reserve proposes to discontinue the FR 2571, contingent upon the addition of these items to the weekly condition/bank credit reports. The Federal Reserve also proposes to add a memorandum item to the FR 2416 and the FR 2069 and to clarify the FR 2416 and the FR 2644 instructions for reporting derivatives.

Proposal to approve under OMB delegated authority the extension for three years, without revision, the following report:

1. Report title: The Recordkeeping and Disclosure Requirements Associated with Loans Secured by Real Estate Located in Flood Hazard Areas Pursuant to Section 208.25 of Regulation H.

Agency form number: unnum Reg H–2.

OMB control number: 7100–0280.

Frequency: Event-generated.

Reporters: State Member Banks.

Annual reporting hours: 58,885.

Estimated average hours per response: Notice of special flood hazards to borrowers and servicers, Notice to FEMA of servicer, and Notice to FEMA of change of servicer: 5 minutes each; Retention of standard FEMA form: 2.5 minutes.

Number of respondents: 988. Small businesses are affected.

General description of report: This information collection is mandatory (12 CFR 208.25). Since the Federal Reserve does not collect any information, no issue of confidentiality would normally arise. Should any of these records come into the possession of the Federal Reserve System, such information would be given confidential treatment (5 U.S.C. 552(b)(4) and (b)(6)).

Abstract: The regulation requires the state member banks (SMBs) to notify a borrower and servicer when loans secured by real estate are determined to be in a special flood hazard area. The SMB must then notify the borrower and servicer whether flood insurance is available. If a loan secured by real estate is in a special flood hazard area, the SMB must notify the Federal Emergency Management Agency (FEMA) of the identity of, and any change of, the servicer of the loan. Lastly, the SMB must retain a copy of the Standard Flood Hazard Determination Form used to determine whether the property securing a loan is in a special flood hazard area.

Board of Governors of the Federal Reserve System, August 31, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–23119 Filed 9–3–99; 8:45 am]

Billing Code 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 21, 1999.

A. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Harriet Dolores Jones, Walker, Minnesota; to acquire voting shares of CNB, Inc., Walker, Minnesota, and thereby indirectly acquire voting shares of Centennial National Bank, Walker, Minnesota.

Board of Governors of the Federal Reserve System, August 31, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–23116 Filed 9–3–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 1, 1999.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. TCNB Financial Corp., Dayton, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens National Bank of Southwestern Ohio, Dayton, Ohio, a *de novo* bank.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1413:

1. Holland Financial Corporation, Holland, Michigan; to acquire 100 percent of the voting shares of The Bank of Northern Michigan, Petoskey, Michigan, in organization.

Board of Governors of the Federal Reserve System, August 31, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–23115 Filed 9–3–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice To Engage in Certain Nonbanking Activities; Correction

This notice corrects a notice (FR Doc. 99-22282) published on page 46916 of the issue for Friday, August 27, 1999.

Under the Federal Reserve Bank of New York heading, the entry for J.P. Morgan & Co., Incorporated, New York, New York, is revised to read as follows:

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. J.P. Morgan & Co. Incorporated, New York, New York, and UBS AG, Zurich, Switzerland (collectively, Notificants) have sought the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and section

225.24 of the Board's Regulation Y (12 CFR 225.24), to acquire or retain more than 20 percent of the voting shares of TP Group Limited, Grand Cayman, Cayman Islands, and thereby acquire shares of its subsidiary, Tradepoint Financial Networks plc, London, England (Tradepoint). Tradepoint operates the Tradepoint Stock Exchange, an electronic stock exchange for the trading of certain securities listed on the London Stock Exchange. The Tradepoint Stock Exchange allows members to electronically enter bids or offers on securities, automatically matches bids and offers for execution, and engages in other related activities. The Tradepoint Stock Exchange does not settle the trades executed on the exchange; trades generally are settled through the London Clearing House. The Tradepoint Stock Exchange is a recognized investment exchange under Section 37(3) of the United Kingdom Financial Services Act of 1986. Pursuant to an exemptive order issued by the Securities and Exchange Commission, the Tradepoint Stock Exchange is not registered as an exchange under the Securities Exchange Act of 1934. The proposed activities would be conducted worldwide.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the application, including whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto" for purposes of section 4(c)(8) of the BHC Act. Notificants assert that the proposed activities are permissible under section 225.28(b)(7) of the Board's Regulation Y. Additional information concerning the proposals is contained in the notices, which are available at the Federal Reserve Bank of New York. The notice also will be available for inspection at the Board of Governors. Any comments or requests for hearing should be submitted in writing and received by Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than September 17, 1999.

Board of Governors of the Federal Reserve System, August 31, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–23117 Filed 9–3–99; 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, including the companies listed below, 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. The notice also will 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 September 21, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. National Bank of Canada, Montreal, Quebec, Canada; to acquire through its wholly owned subsidiary, First Marathon Inc., Toronto, Canada, in excess of 4.9 percent but less than 25 percent of the voting shares of GlobalNet Financial.com, Inc., Boca Raton, Florida, and thereby engage in financial and investment advisory services, pursuant to § 225.28(b)(6) of Regulation Y; in securities brokerage services, pursuant to § 225.28(b)(7)(i) of Regulation Y; and in data processing services, pursuant to § 225.28(b)(14) of Regulation Y. These acitivities will be conducted worldwide.

B. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Commerce Bancorp, Inc., Cherry Hill, New Jersey; to acquire 9.9 percent of Chester Valley Bancorp, Inc., Downingtown, Pennsylvania, and thereby indirectly acquire First Financial Savings Bank, Downingtown, Pennsylvania, and thereby engage in operating a savings association, pursuant to § 225.28(b)(14) of Regulation Y. Comments on this notice must be received by October 1, 1999.

Board of Governors of the Federal Reserve System, August 31, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–23118 Filed 9–3–99; 8:45 am]

BILLING CODE 6210–01–F

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

The Depository Library Council to the Public Printer (DLC) will meet on Monday, October 18, 1999, through Thursday, October 21, 1999, in Kansas City, Missouri. The sessions will take place from 8:30 a.m. until 5 p.m. on Monday, Tuesday, and Wednesday, and from 8:30 a.m. until 10 a.m. on Thursday. The meeting will be held at the Hotel Phillips, 106 West 12th Street, Kansas City, Missouri. The purpose of this meeting is to discuss the Federal Depository Library Program. All sessions are open to the public.

A limited number of hotel rooms have been reserved at the Hotel Phillips for anyone needing hotel accommodations. Telephone: (800) 433–1426 or the hotel directly at (816) 221–7000. Please specify the U.S. Government Printing Office when you contact the hotel. Room cost per night is $88 single, $98 double through September 17, 1999.

Michael F. DiMario,

Public Printer.

[FR Doc. 99–23149 Filed 9–3–99; 8:45 am]

BILLING CODE 1520–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Privacy Act of 1974: Altered System of Records

AGENCY: Office of the Assistant Secretary for Management and Budget, Office of the Secretary, HHS.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the U.S. Department of Health and Human Services (HHS) is publishing a notice of a proposed altered system of records, 09–90–0024, "Financial Transactions of HHS Accounting and Finance Offices." The purpose of the alteration is to add

a new routine use in order to implement the administrative wage garnishment provision in section 31001(o) of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), codified at 31 U.S.C. 3720D.

DATES: HHS submitted a report of an altered system to the Office of Management and Budget and to the Congress on July 26, 1999. The new routine use will take effect without further notice 40 days after the date of publication, unless HHS receives comments which would result in a contrary determination.

ADDRESSES: Please address comments to: Deputy Assistant Secretary, Finance, Room 555–D, Hubert H. Humphrey Building, 200 Independence Ave.. SW., Washington, DC 20201.

Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Sue Mundstuk, Privacy Act Coordinator, Office of Financial Policy, DASF/ASMB, Room 522–D, Hubert H. Humphrey Building, 200 Independence Ave, SW., Washington, DC 20201, Telephone: (202) 690–6228.

SUPPLEMENTARY INFORMATION: The system notice was last published in full at 62 FR 758 (1997).

On April 26, 1996, the Congress passed Pub. L. 104–134, Sec. 31001 known as the "Debt Collection Improvement Act of 1996" (DCIA). The purposes of this Act are to: (1) Maximize collections of delinquent debts owed to the Government, (2) minimize the costs of debt collection, (3) reduce losses arising from debt management activities, (4) ensure that the public is fully informed of the Federal Government's debt collection policies, (5) ensure debtors are cognizant of their financial obligations to repay amounts owed to the Government, (6) ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures, and (7) encourage agencies, when appropriate to sell delinquent debts, particularly debts with underlying collateral, and rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies.

The DCIA authorizes Federal agencies to administratively garnish the disposable pay of an individual to collect delinquent nontax debts owed to the United States in accordance with regulations issued by the Secretary of the Treasury. The Financial Management Service (FMS), a bureau of the Department of the Treasury, is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA. FMS published the final rule in 63 FR 25136, which was effective June 5, 1998. The complete administrative wage garnishment provisions can be found at 31 CFR part 285. We have added routine use 22 to provide for the issuing of wage garnishment orders to the employers of delinquent debtors, pursuant to 31 CFR part 285.

The complete system notice is republished below.

Dated: July 26, 1999.

John J. Callahan,

Assistant Secretary for Management and Budget.

09–90–0024

SYSTEM NAME:

Financial Transactions of HHS Accounting and Finance Offices, HHS/OS/ASMB.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix 1.

Memoranda copies of claims submitted for reimbursement of travel and other expenditures while on official business may also be maintained at the administrative and/or program office of the HHS employee. Records concerning outstanding debts may also be maintained at the program office or by the designated claims officer apart from the finance office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons who receive a payment from the Operating Divisions (OPDIV) Headquarters, Area and District offices and all persons owing monies to these HHS components. Persons receiving payments include, but are not limited to, travelers on official business, grantees, contractors, consultants, and recipients of loans and scholarships. Persons owing monies include, but are not limited to, persons who have been overpaid and who owe HHS a refund and persons who have received from HHS goods or services for which there is a charge or fee (e.g., Freedom of Information Act requesters).

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identification number, address, purpose of payment, accounting classification and amount paid. Also, in the event of an overpayment and for outstanding loans, grants or scholarships, the amount of the indebtedness, the repayment status and the amount to be collected. In the event of an administrative wage garnishment, information about the debtor's employment status and disposable pay available for withholding will be maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Budget and Accounting Act of 1950 (Pub. L. 81–784); Debt Collection Act of 1982 (Pub. L. 97–365); Debt Collection Improvement Act of 1996 (Pub. L. 104–134, sec. 31001).

PURPOSE(S):

These records are an integral part of the accounting systems at OPDIVs Headquarters and specific Area and District locations. The records are used to keep track of all payments to individuals, exclusive of salaries and wages, based upon prior entry into the systems of the official commitment and obligation of government funds. When a person is to repay funds advanced as a loan or scholarship, etc., the records will be used to establish a receivable record and to track repayment status. In the event of an overpayment to a person, the record is used to establish a receivable record for recovery of the amount claimed. The records are also used internally to develop reports to the Internal Revenue Service (IRS) and applicable State and local taxing officials of taxable income. This is a Department-wide notice of payment and collection activities at all locations listed in Appendix 1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records will be routinely disclosed to the Treasury Department in order to effect payment.

2. Records may be disclosed to members of Congress concerning a Federal financial assistance program in order for members to make informed opinions on programs and/or activities impacting on legislative decisions. Also, disclosure may be made to a congressional office from an individual's record in response to an inquiry from the congressional office made at the request of the individual in order to be responsive to the constituency.

3. In the event HHS deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

4. A record from this system may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other

relevant enforcement records or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license, grant or other benefit.

5. A record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to its decision on the matter.

6. Where Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service (IRS) or the Civil Rights Commission, issue a subpoena to HHS for records in this system of records, HHS will make such records available, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

7. Where a contract between a component of HHS and a labor organization recognized under E.O. 11491 provides that the agency will disclose personal records relevant to the organization's mission, records in the system of records may be disclosed to such organization.

8. A record may be disclosed to the Department of Justice, to a court, or other tribunal, or to another party before such tribunal, when: (1) HHS, or any component thereof; (2) Any HHS employee in his/her official capacity; (3) Any HHS employee in his/her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (4) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

9. A record about a loan applicant or potential contractor or grantee may be disclosed from the system of records to credit reporting agencies to obtain a credit report in order to determine the person's credit worthiness.

10. When a person applies for a loan under a loan program as to which the OMB has made a determination under I.R.C. 6103(a)(3), a record about his/her application may be disclosed to the Treasury Department to find out whether he/she has a delinquent tax account, for the sole purpose of determining the person's creditworthiness.

11. A record from this system may be disclosed to the following entities in order to help collect a debt owed the United States:

a. To another Federal agency so that agency can effect a salary offset;

b. To the Treasury Department or another Federal agency in order to effect an administrative offset under common law or under 31 U.S.C. 3716 (withholding from money payable to, or held on behalf of, the individual);

c. To the Treasury Department to request the person's mailing address under I.R.C. 6103(m)(2) in order to help locate the person or to have a credit report prepared;

d. To agents of HHS and to other third parties, including credit reporting agencies, to help locate the person or to obtain a credit report on him/her, in order to help collect or compromise a debt;

e. To debt collection agents or contractors under 31 U.S.C. 3718 or under common law to help collect a past due amount or locate or recover debtors' assets;

f. To the Justice Department for litigation or for further administrative action; and

g. To the public, as provided by 31 U.S.C. 3720E, in order to publish or otherwise publicly disseminate information regarding the identity of the person and the existence of a nontax debt.

Disclosure under part (d) and (g) of this routine use is limited to the individual's name, address, social security number, and other information necessary to identify the person. Disclosure under parts (a)–(c) and (e) is limited to those items; the amount, status, and history of the claim; and the agency or program under which the claim arose. An address obtained from IRS may be disclosed to a credit reporting agency under part (d) only for purposes of preparing a credit report on the individual.

12. A record from this system may be disclosed to another Federal agency that has asked HHS to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to: Name and address, Social Security number, and other information necessary to identify the individual; information about the money payable to or held for the individual; and other information concerning the administrative offset.

13. Disclosure with regard to claims or debts arising under or payable under the Social Security Act may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1986 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed the Federal Government. Disclosure of records is limited to the individual's name, address, Social Security number, and other information necessary to establish the individual's identity; the amount, status and history of the claim; and the agency or program under which the claim arose.

14. Information in this system of records is used to prepare W–2s and 1099 Forms to submit to the Internal Revenue Service and applicable State and local governments items considered to be included as income to a person: Certain travel related payments to employees, all payments made to persons not treated as employees (e.g., fees to consultants and experts), and amounts written-off as legally or administratively uncollectible, in whole or in part.

15. A record may be disclosed to banks enrolled in the Treasury Credit Card Network to collect a payment or debt when the person has given his/her credit card number for this purpose.

16. Records may be disclosed to a contractor (and/or to its subcontractor) who has been engaged to perform services on an automated data processing (ADP) system used in processing financial transactions. The contractor may have been engaged to develop, modify and test a new ADP system, including both software and hardware upgrades or enhancements to such a system; perform periodic or major maintenance on an existing ADP system; audit or otherwise evaluate the performance of such an ADP system; and/or operate such a system.

17. Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for the Department but technically not having the status of agency employees,

if they need access to the records in order to perform their assigned agency functions.

18. A record from this system may be disclosed to any Federal agency or its agents in order to participate in a computer matching of a list of debtors against a list of Federal employees. Disclosure of records is limited to debtors' names, names of employers, taxpayers identifying numbers, addresses (including addresses of employers), and dates of birth, and other information necessary to establish the person's identity.

19. A record may be disclosed to a commercial reporting agency that a person is responsible for a current claim, in order to aid in the collection of claims, typically by providing an incentive to the person to repay the claim or a debt timely. Disclosure of records is limited to information about a person as is relevant and necessary to meet the principal purpose(s) for which it is intended to be used under the law.

20. A record from this system may be disclosed to the Treasury Department or to an agency operating a Debt Collection Center designated by the Treasury in order to effect a collection of past due amounts.

21. If HHS decides to sell a debt pursuant to 31 U.S.C. 3711(I), a record from the system may be disclosed to purchasers, potential purchasers, and contractors engaged to assist in the sale or to obtain information necessary for potential purchasers to formulate bids and information necessary for purchasers to pursue collection remedies.

22. If HHS decides to administratively garnish wages of a delinquent debtor under the wage garnishment provision in 31 U.S.C. 3720D, a record from the system may be disclosed to the debtor's employer. This disclosure will take the form of a wage garnishment order directing that the employer pay a portion of the employee/debtor's wages to the Federal Government. Disclosure of records is limited to debtor's name, address, and social security number.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552a(b)(12): Disclosure may be made from this system to "consumer reporting agencies," as defined in 31 U.S.C. 3701(a)(3). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal Government, typically, to provide an incentive for debtors to repay their debts timely, by making these debts part of their credit records.

Disclosure of records is limited to the individual's name, address, social security number, and other information necessary to establish the individual's identity; the amount, status and history of the claim; and the agency or program under which the claim arose. The disclosure will be made only after the procedural requirements of 31 U.S.C. 3711(e) have been followed.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy documents are maintained in file folders at agency headquarters and area/district office sites; and on computer disc pack and magnetic tape at central computer sites.

RETRIEVABILITY:

This varies according to the particular accounting system within the HHS Operating Divisions, Area and District Offices. Usually the hard copy document is filed by name within accounting classification. Computer records may be indexed by social security number and voucher number. Intra-departmental uses and transfers concern the validation and certification for payment, and for HHS internal audits.

SAFEGUARDS:

1. *Authorized Users:* Employees and officials directly responsible for programmatic or fiscal activity, including administrative and staff personnel, financial management personnel, computer personnel, and managers who have responsibilities for implementing HHS funded programs.

2. *Physical Safeguards:* File folders, reports and other forms of personnel data, and electronic diskettes are stored in areas where fire and life safety codes are strictly enforced. All documents and diskettes are protected during lunch hours and nonworking hours in locked file cabinets or locked storage areas. Magnetic tapes and computer matching tapes are locked in a computer room and tape vault.

3. *Procedural Safeguards:* Password protection of automated records is provided. All authorized users protect information from public view and from unauthorized personnel entering an office. The safeguards described above were established in accordance with HHS Chapter 45–13 of the General Administration Manual; and the HHS ADP System Manual Part 6, "ADP Systems Security."

RETENTION AND DISPOSAL:

Records are purged from automated files once the accounting purpose has been served; printed copy and manual documents are retained and disposed of in accordance with General Accounting Office principles and standards as authorized by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Health and Human Services, DHHS, Assistant Secretary for Management and Budget, Office of the Secretary, Room 510A, Hubert H. Humphrey Building, Washington, DC 20201.

NOTIFICATION PROCEDURE:

Inquiries should be made, either in writing or in person, to the organizations listed under "Location" in Appendix 1, with the exception of Food and Drug Administration records. For those records, contact: FDA Privacy Act Coordinator (HFW–30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

The individual making the inquiry must show proof of identity before information is released. Give name and social security number, purpose of payment or collection (travel, grant, etc.) and, if possible, the agency accounting classification.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also clearly specify the record contents being sought, and may include a request for an accounting of disclosures that have been made of their records, if any. (These access procedures are in accordance with HHS regulations (45 CFR 5b.5(a)(2)).)

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedure above, and reasonably identify the record and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Travel vouchers submitted by the individual; grant, contract and loan award document; delinquent loan, grant and scholarship record; consultant invoice of services rendered; and application for travel advance.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1—Location

Indian Health Service Area Offices (IHS)

Aberdeen Area Indian Health Service, Federal Building, 115 Fourth Avenue, Southeast, Aberdeen, SD 57401
Alaska Area Indian Health Service, 4141 Ambassador Drive, Anchorage, AK 99508–5928
Albuquerque Area Indian Health Service, 5338 Montgomery Blvd., NE, Albuquerque, NM 87109–1311
Bemidji Area Indian Health Service, 522 Minnesota Ave., NW, Bemidji, MN 56601
Billings Area Indian Health Service, 2900 4th Avenue North, Billings, MT 59101
California Area Indian Health Service, 1825 Bell Street, Sacramento, CA 95825–1097
Nashville Area Indian Health Service, 711 Stewarts Ferry Pike, Nashville, TN 37214–2634
Navajo Area Indian Health Service, P.O. Box 9020, Window Rock, AZ 86515–9020
Oklahoma City Area Indian Health Service, Five Corporate Plaza, 3625 NW 56th Street, Oklahoma City, OK 73112
Phoenix Area Indian Health Service, Two Renaissance Square, 40 North Central Avenue, Phoenix, AZ 85004
Portland Area Indian Health Service, 1220 S.W. Third Avenue—Room 476, Portland, OR 97204–2892
Tucson Area Indian Health Service, 7900 South "J" Stock Road, Tucson, AZ 97204–2892

Food and Drug Administration District Offices (FDA)

Food and Drug Administration, FDA, 60 Eighth Street, NE, Atlanta, GA 30309
Food and Drug Administration, FDA, Boston District Office, One Montvale Avenue, Stoneham, MA 62180
Food and Drug Administration, FDA, 599 Delaware Avenue, Buffalo, NY 14202
Food and Drug Administration, FDA, Room 700, Federal Office Building, 850 3rd Avenue (at 30th Street), Brooklyn, NY 11232
Food and Drug Administration, FDA, 61 Main Street, West Orange, NJ 07052
Food and Drug Administration, FDA, Room 1204, US Customhouse, 2nd and Chestnut Streets, Philadelphia, PA 19106
Food and Drug Administration, FDA, 900 Madison Avenue, Baltimore, MD 21201
Food and Drug Administration, FDA, San Juan District Office, PO Box 5719 PTA, De Tierra Station, San Juan, PR 00906–5719
Food and Drug Administration, FDA, Room 1222, Main Post Office Building, 433 West Van Buren Street, Chicago, IL 60607
Food and Drug Administration, FDA, 1560 East Jefferson Avenue, Detroit, MI 48207
Food and Drug Administration, FDA, 1141 Central Parkway, Cincinnati, OH 45202
Food and Drug Administration, FDA, 240 Hennepin Avenue, Minneapolis, MN 55401
Food and Drug Administration, FDA, 3032 Bryan Street, Dallas, TX 75204
Food and Drug Administration, FDA, 4298 Elysian Fields, New Orleans, LA 70122
Food and Drug Administration, FDA, National Center for Toxicological Research, Jefferson, AR 72079
Food and Drug Administration, FDA, 1009 Cherry Street, Kansas City, MO 64106
Food and Drug Administration, FDA, US Courthouse and Courthouse Building, 1114 Market Street, Room 1002, St. Louis, MO 63101
Food and Drug Administration, FDA, Building 20, Denver Federal Center, PO Box 25087, Denver, CO 80255–0087
Food and Drug Administration, FDA, Federal Office Building, Room 506, 50 United National Plaza, San Francisco, CA 94102
Food and Drug Administration, FDA, 1521 West Pico Boulevard, Los Angeles, CA 90015
Food and Drug Administration, FDA, 22201 23rd Avenue, SE, Bothell, WA 98021–4421
Food and Drug Administration, FDA, Headquarters Office, 5600 Fishers Lane, Room 11–83, Parklawn Building, Rockville, MD 20857

Centers for Disease Control and Prevention (CDC)

Centers for Disease Control and Prevention, CDC, Accounting Section (CO–5), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226
Centers for Disease Control and Prevention, CDC
—and—
Agency for Toxic Substances and Disease Registry (ATSDR)
Financial Management Office, 1600 Clifton Road NE, (M/S D–04), Atlanta, GA 30333

Health Care Financing Administration (HCFA)

Health Care Financing Administration, HCFA, Room C3–0927, 7500 Security Boulevard, Baltimore, MD 21244

National Institutes of Health (NIH)

National Institutes of Health, NIH, Building 1, Room 222, Rocky Mountain Laboratory, Hilton, MT 59840
National Institutes of Health, NIH, National Institute of Mental Health, WAW Building, Room 562, St. Elizabeth's Hospital, Washington, DC 20032
National Institutes of Health, NIH, Frederick Cancer Research Facility, Fort Detrick Building, Room 427, Frederick, MD 21702–1201
National Institutes of Health, NIH, National Institutes of Environmental Health Sciences, Room B2–03, Building 101, Research Triangle Park, NC 27709
National Institutes for Health, NIH, National Institute on Drug Abuse, Addiction Research Center, Building C, Room 248, 4940 Eastern Avenue, Baltimore, MD 21224
National Institutes for Health, NIH, Headquarters Office, Operations Accounting Branch, Building 31, Room B1–B63, 9000 Rockville Pike, Bethesda, MD 20892–0134

Program Support Center (PSC)

Program Support Center, PSC, Division of Fiscal Services, 5600 Fishers Lane, Room 16–05, Rockville, MD 20857

Individual records of the following HHS Operating Divisions may be obtained from the Program Support Center (PSC):

1. Administration for Children and Families (ACF)
2. Administration on Aging (AoA)
3. Agency for Health Care Policy and Research (AHCPR)
4. Health Resources and Services Administration (HRSA)
5. Indian Health Service (IHS)
6. Substance Abuse and Mental Health Services Administration (SAMHSA)
7. Office of the Secretary (OS)

Substance Abuse and Mental Health Services Administration (SAMHSA)

In addition to the individual records maintained by the PSC, travel-related records for SAMHSA employees may also be obtained from the following SAMHSA program offices:

Office of the Administrator, Substance Abuse and Mental Health Services Administration, Room 12–107, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Office of Applied Studies, Substance Abuse and Mental Health Services Administration, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Office of Program Services, Division of Administrative Services, Substance Abuse and Mental Health Services Administration, Room 6–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857
Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, Room 9D10, Rockwall II Building, 5600 Fishers Lane, Rockville, Maryland 20857
Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, Room 10–75, Rockwall II Building, 5600 Fishers Lane, Rockville, Maryland 20857
Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, Room 15–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

[FR Doc. 99–23122 Filed 9–3–99; 8:45 am]
BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Capacity-Building Assistance (CBA) To Improve the Delivery and Effectiveness of Human Immunodeficiency Virus (HIV) Prevention Services for Racial and Ethnic Minority Populations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

ACTION: Request for comments.

SUMMARY: In Fiscal Year 2000, CDC will provide approximately 8.4 million dollars to support racial and ethnic

minority non-governmental organizations (NGOs) to carry out capacity-building activities that will strengthen the delivery and effectiveness of HIV prevention programs and services for racial and ethnic minority populations.

On June 30, 1999, CDC published in the **Federal Register** [64 FR 35170] a summary of this proposed program and requested public comments. Upon receipt of these comments, the CDC revised the proposed program and is again requesting additional comments. After consideration of additional comments submitted, the CDC will publish a program announcement to solicit applications. A more complete description of the goals of this program, the target applicants, availability of funds, program requirements, and evaluation criteria follows.

DATES: The public is invited to submit comments by September 21, 1999. The National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention will host a Consultation on September 9–10, 1999, in Atlanta, Georgia to solicit additional comments on the Summary Statement for Capacity-Building Assistance (CBA) to Improve the Delivery and Effectiveness of Human Immunodeficiency Virus (HIV) Prevention Services for Racial and Ethnic Minority Populations.

ADDRESSES: Submit comments to: Technical Information and Communications Branch, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mail Stop E49, Atlanta, GA 30333.

FOR FURTHER INFORMATION CONTACT: Technical Information and Communications Branch, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mail Stop E49, Atlanta, GA 30333, Fax (404) 639–2007, E-mail address: HIVMAIL@CDC.GOV, Telephone (404) 639–2072.

SUPPLEMENTARY INFORMATION

A. Program Purpose

The primary purpose of this program is to provide financial and programmatic assistance to national, regional, and local non-governmental minority organizations to develop and implement regionally structured and integrated capacity-building assistance systems that will sustain, improve, and expand local HIV prevention services for racial and ethnic minority individuals whose behaviors place them at risk for acquiring or transmitting HIV and other sexually transmitted diseases (STDs). For this program, capacity-building assistance is defined as the provision of information, new HIV prevention technologies, consultation, technical services, and training for individuals and organizations to improve the delivery and effectiveness of HIV prevention services.

Capacity-building assistance developed under this program will be provided in 4 priority areas as follows: (1) Strengthening Organizational Infrastructure for HIV Prevention, (2) Enhancing HIV Prevention Interventions, (3) Mobilizing Communities for HIV Prevention, and (4) Strengthening HIV Prevention Community Planning.

Capacity-building assistance in Priority Areas (1), (2), and (4) will be regionally structured and delivered to the intended audience within four regional groups as follows:

Northeast Region: CT, MA, ME, NH, NJ, NY, PA, PR, RI, VT, U.S. Virgin Islands

Midwest Region: IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WI

South Region: AL, AR, D.C., DE, FL, GA, KY, LA, MD, MS, NC, OK, SC, TN, TX, VA, WV

West Region: AK, AZ, CA, CO, HI, ID, NV, NM, OR, MT, UT, WA, WY, American Samoa, Commonwealth of Northern Mariana Islands, Federated States of Micronesia, Guam, Republic of Marshall Islands, Palau

Capacity-building assistance in Priority Area (3) can be structured and delivered within any of the four regional groups identified above, but can also be targeted according to identifiable patterns of minority subcultures and affinity groups (e.g., migrant streams, faith leaders, injection drug using networks).

B. Goals

The goals for this program are as follows:

1. Priority Area (1): Strengthening Organizational Infrastructure

Improve the capacity of community-based organizations (CBOs) to develop and sustain organizational infrastructures that support the delivery of HIV prevention program services and interventions.

The emphasis for providing capacity-building assistance in Priority Area (1) is for CBOs funded directly by CDC. Other CBOs can be provided assistance, if funding is sufficient for expanded services.

2. Priority Area (2): Enhancing Interventions

Improve the capacity of CBOs to design, develop, implement, and evaluate effective HIV prevention interventions for racial/ethnic minority populations at risk for acquiring or transmitting HIV and other STDs.

The emphasis for providing capacity-building assistance in Priority Area (2) is for CBOs funded directly by CDC, and CBOs funded by State or local health departments. Other organizations can be provided assistance in Priority Area (2), if funding is sufficient for expanded services.

3. Priority Area (3): Mobilizing Communities for HIV Prevention

Improve the capacity of CBOs and other community stakeholders to engage and develop their communities for the purpose of increasing their awareness, leadership, participation in, and support for HIV prevention.

The emphasis for providing capacity-building assistance in Priority Area (3) is for CBOs and other community stakeholders relating to racial and ethnic minority communities heavily affected by the HIV/AIDS epidemic.

4. Priority Area (4): Strengthening HIV Prevention Community Planning

a. Enhance the capacity of CBOs, health departments, and other community stakeholders to effectively participate in and support the HIV prevention community planning process.

b. Enhance the capacity of community planning groups (CPGs) to support and involve racial and ethnic minority participants in the community planning process and to increase Parity, Inclusion, and Representation (PIR) .

The emphasis for providing capacity-building assistance in Priority Area (4) is for community planning groups, CBOs and other community stakeholders, and health departments. For the purpose of this program announcement, community stakeholders are individuals, groups, or organizations in the target community that have an interest or stake in preventing HIV and are potential or actual agents of change.

C. Priority Areas

In the following sections, information will be described on eligible applicants, availability of funds, funding priorities, program requirements, and evaluation criteria for each of the priority areas. Organizations may apply for more than one priority area. However, a separate application must be submitted for each priority area.

1. Priority Area (1): Strengthening Organizational Infrastructure

a. Eligibility

Eligible applicants are national minority organizations, or for-profit small minority businesses. Applicants must meet the following criteria:

(1) Small minority businesses

(a) Have obtained 8A status from the Small Business Administration (SBA).

(b) Have minority ownership of the business.

(c) Have a 3-year track record providing organizational capacity-building assistance to CBOs serving racial and ethnic minority population(s).

(d) Have racial and ethnic minority persons serve in greater than 50 percent of key positions in the organization, including management, supervisory, administrative, and service provision positions (for example, company executive officer, program director, fiscal director, or capacity-building assistance providers).

(2) National non-governmental minority organizations

(a) Have a currently-valid IRS Tax Determination 501(C)3 status.

(b) Have a documented and established 3-year record of service providing organizational capacity-building assistance to CBOs serving racial and ethnic minority population(s).

(c) Have a governing body composed of greater than 50 percent racial and ethnic minority members.

(d) Have racial and ethnic minority persons serve in greater than 50 percent of key positions in the organization, including management, supervisory, administrative, and service provision positions (for example, executive director, program director, fiscal director, technical assistance provider, trainer, curricula development specialist, or group facilitator).

Applicants applying for Priority Area (1) must serve CBOs in all 4 regions specified above and provide assistance to CBOs providing services to all 4 major racial/ethnic groups which are as follows: Black or African-American, Hispanic or Latino, American Indian or Alaskan Native, and Asian/Native Hawaiian or Other Pacific Islander.

b. Availability of Funds

Up to $2.0 million is expected to be available in FY 2000 to fund 1–4 programs. It is expected that the awards will begin in March, 2000, and will be made for a 12-month budget period within a project period of up to five years.

c. Funding Priorities

In making funding decisions, efforts will be made to ensure capacity-building assistance for all CDC-funded CBOs.

d. Program Requirements

The program requirements are as follows:

(1) Conduct an assessment of the governance, management, administrative, and fiscal systems of all CDC funded CBOs.

(2) Develop and implement a plan for targeting, engaging, and maintaining long-term capacity-building relationships with CDC-funded CBOs. The plan should include strategies for conducting ongoing needs assessments and developing tailored multi-component capacity-building packages to be delivered over the long-term and as appropriate to the identified needs.

(3) Ensure the effective and efficient provision of capacity-building assistance to strengthen organizational infrastructure. Examples include, but are not limited to, organizational evaluation and assessment, board development, human resource management, fiscal management, strategic planning, HIV prevention policy development, and implementation of quality assurance measures (a more complete list will be provided in the program announcement). These services are to be provided through the use of the following delivery mechanisms: Information Transfer, Skills Building, Technical Consultation, Technical Services, and Technology Transfer.

(4) Develop and implement a system that responds to capacity-building assistance requests. This system must include mechanisms for assessing and prioritizing requests; linking requests to other capacity-building resources; and to services provided in Priority Areas (2), (3) and (4); delivering capacity-building services; and conducting quality assurance.

(5) Create, utilize, and support a regionally structured resource network that includes consultants and other subject matter experts with expertise in strengthening organizational infrastructure. Emphasize the use of locally-based consultants. Supportive services for the resource networks include, but are not limited to, developing training materials (technical service) and conducting orientation (information transfer) for consultants to assist them with delivering effective and efficient services that follow national standards of practice and compliment CDC's standards and expectations for conducting business and programmatic activities.

(6) Identify, collaborate with, and complement the capacity-building efforts available locally to avoid duplication of effort and to ensure that capacity-building assistance is allocated according to gaps in services and the priority "Organizational Infrastructure Development and Assessment" needs of CDC-funded CBOs.

(7) Coordinate program activities with appropriate national, regional, State, and local HIV prevention programs; national, State and local capacity-building providers; and State or local community planning groups.

Site visits by CDC staff may be conducted before final funding decisions are made. A fiscal Recipient Capability Assessment (RCA) may be required of some applicants before funds are awarded.

2. Priority Area (2): Enhancing HIV Prevention Interventions

a. Eligibility

Eligible applicants are national minority organizations as lead organizations within a coalition serving a specific racial/ethnic minority group within all four regions, or a regional minority organization as the lead organization within a coalition serving a specific racial/ethnic minority group within all four regions. Applicants must meet the following criteria:

(1) Have a currently-valid IRS Tax Determination 501(C)3 status.

(2) Have a documented and established 3-year record of service providing capacity-building assistance in "Enhancing HIV Prevention Interventions".

(3) Have a governing body composed of greater than 50 percent of the racial and ethnic minority population to be served.

(4) Have greater than 50 percent of key positions in the organization, including management, supervisory, administrative, and service provision positions filled by members of the racial and ethnic population to be served (for example, executive director, program director, fiscal director, technical assistance provider, trainer, curricula development specialist, or group facilitator).

Members of the coalition must include, at a minimum, an organization located within each of the four regions. The lead applicant can represent one of the four regions. Applicants must apply to serve no more than one of the four major racial/ethnic groups.

b. Availability of Funds

Up to 3.5 million is expected to be available in FY 2000 to fund 4 programs. It is expected that the awards will begin in March, 2000, and will be made for a 12-month budget period within a project period of up to five years.

c. Funding Priorities

In making funding decisions, efforts will be made to ensure that (1) capacity-building assistance is available for all four regions and all four major ethnic/racial groups, and (2) funding for capacity-building assistance is distributed in proportion to the HIV/AIDS disease burden for the four major racial and ethnic minority populations.

d. Program Requirements

The program requirements are as follows:

(1) Ensure the effective and efficient provision of capacity-building assistance to enhance HIV prevention interventions. Examples include, but are not limited to, curricula development, improving cultural competence, service integration, incorporating behavioral science, improving health communication messages, evaluation for intervention effectiveness, and improving risk reduction strategies (a more complete list will be provided in the program announcement). These services are to be provided through the use of the following delivery mechanisms: Information Transfer, Skills Building, Technical Consultation, Technical Services, and Technology Transfer. These services should be culturally appropriate and based in science.

(2) Establish and support a coalition to implement proposed program. The coalition should represent all four regions. Supportive services for the coalition include, but are not limited to, establishing ongoing communication mechanisms, establishing reporting standards, conducting process evaluation, establishing standards of practice, and conducting quality assurance.

(3) Create, utilize, and support regionally-based resource networks that includes the applicant and coalition members' current and proposed staff, researchers, academicians, consultants, and other subject matter experts, and may include collaborative relationships. Emphasize the use of locally-based consultants and experts. Supportive services for the resource networks include, but are not limited to, developing training materials (technical service), diffusion of best program practices and intervention models (technology transfer), and conducting orientation (information transfer) for consultants to assist them with delivering effective and efficient services that follow national standards of practice and compliment CDC's standards and expectations for conducting HIV educational programs and interventions.

(4) Develop and implement a plan for targeting, engaging, and maintaining long-term capacity-building relationships with CBOs. The plan should include strategies for conducting ongoing assessments and evaluations of HIV interventions and the support structures to deliver these interventions, and developing tailored capacity-building packages to be delivered over the long-term and as appropriate to the identified needs.

(5) Develop and implement a system that responds to capacity-building assistance requests. This system must include mechanisms for assessing and prioritizing requests; linking requests to other capacity-building resources and to services provided in Priority Areas (1), (3) and (4); delivering services; and conducting quality assurance.

(6) Identify, collaborate with, and complement the capacity-building efforts available locally to avoid duplication of effort and to ensure that capacity-building assistance is allocated according to gaps in services and the priority "Enhancing HIV Prevention Interventions " needs of CBOs serving minority populations at high risk for acquiring and transmitting HIV and other STDs.

(7) Coordinate program activities with appropriate national, regional, State, and local HIV prevention programs, capacity-building providers, and community planning groups.

(8) Evaluate the accomplishment of program objectives and the process and outcomes of capacity-building assistance.

3. Priority Area (3): Mobilizing Communities for HIV Prevention

a. Eligibility

Eligible applicants are national, regional, or local minority organizations serving a community or communities defined by locality, risk behaviors, HIV/AIDS impact, HIV prevention health problems and needs, patterned social interaction, or a collective identity. At a minimum, Priority Area (3) activities must be conducted in two or more States. Applicants must meet the following criteria:

(1) Have a currently-valid IRS Tax Determination 501(C)3 status.

(2) Have a documented and established 3-year record of service providing capacity-building assistance in "Community Engagement and Development'.

(3) Have a governing body composed of greater than 50 percent of the racial and ethnic population to be served.

(4) Have racial and ethnic minority persons serve in greater than 50 percent of key positions in the organization, including management, supervisory, administrative, and service provision positions (for example, executive director, program director, fiscal director, technical assistance provider, trainer, curricula development specialist, or group facilitator).

b. Availability of Funds

Up to 1.4 million is expected to be available in FY 2000 to fund up to 10 programs. It is expected that the awards will begin in March, 2000, and will be made for a 12-month budget period within a project period of up to five years.

c. Funding Priorities

In making funding decisions, efforts will be made to ensure that funding for capacity-building assistance is distributed in proportion to the HIV/AIDS disease burden for the communities to be served.

d. Program Requirements

The program requirements are as follows:

(1) Select a defined community or cluster of communities that are defined by locality, risk behaviors, HIV/AIDS impact, HIV prevention health problems and needs, patterned social interaction, or a collective identity.

(2) Identify major opinion leaders across a diverse spectrum of individuals within the community(ties) who can identify high risk groups within the community, involve them in undertaking a community assessment and build consensus on actions that are necessary to strengthen networks for change within the community.

(3) Establish a community board comprised of diverse stakeholders such as (community leaders in areas of health, education, public health, parent groups, civic organizations, religion and political) who can identify and adopt a vision of their community and develop a practical, acceptable and feasible HIV prevention agenda.

(4) Develop a plan of action to provide capacity-building assistance to CBO staff and other community stakeholders that enables them to engage and develop their community or communities. This plan of action may include, but not be

limited to, training in leadership development, communication and resource network development, coalition building, community mobilization strategy development, community resources and needs assessments, community infrastructure development, policy development and analyses, and services integration and linkage development (a more complete list will be provided in the program announcement). These services are to be provided through the use of the following delivery mechanisms: Information Transfer, Skills Building, Technical Consultation, Technical Services, and Technology Transfer.

(5) Develop, implement, and market a system that responds to requests for assistance in mobilizing communities for HIV prevention. This system must include mechanisms for assessing and prioritizing requests; linking requests to other capacity-building resources and to services provided in Priority Areas (1), (2) and (4); delivering services; and conducting quality assurance.

(6) Develop and implement a plan for targeting, engaging, and maintaining long-term capacity-building relationships with CBOs. The plan should include strategies for conducting ongoing needs assessments and developing tailored capacity-building packages to be delivered over the long-term and as appropriate to the identified needs.

(7) Coordinate program activities with appropriate national, regional, State, and local HIV prevention programs, capacity-building providers, and community planning groups.

(8) Disseminate community engagement and development activities around HIV education and prevention at CDC grantee meetings, site visits, HIV prevention conferences and in publications and manuals.

4. Priority Area (4): Strengthening HIV Prevention Community Planning

a. Eligibility

Eligible applicants are national minority organizations as lead organizations within a coalition serving a specific racial/ethnic minority group within all four regions, or a regional minority organization as the lead organization within a coalition serving a specific racial/ethnic minority group within all four regions. Applicants must meet the following criteria:

(1) Have a currently-valid IRS Tax Determination 501(C)3 status.

(2) Have a documented and established 3-year record of service providing capacity-building assistance in strengthening HIV Prevention Community Planning.

(3) Have a governing body composed of greater than 50 percent of the racial and ethnic minority population to be served.

(4) Have greater than 50 percent of key positions in the organization, including management, supervisory, administrative, and service provision positions filled by persons of the racial and ethnic minority group to be served (for example, executive director, program director, fiscal director, technical assistance provider, trainer, curricula development specialist, or group facilitator).

Members of the coalition must include, at a minimum, an organization located within each of the four regions. The lead applicant can represent one of the four regions. Applicants must apply to serve no more than one of the four major racial/ethnic groups.

b. Availability of Funds

Up to 1.5 million is expected to be available to fund up to 4 programs. It is expected that the awards will begin in March, 2000, and will be made for a 12-month budget period within a project period of up to five years.

c. Funding Priorities

In making funding decisions, efforts will be made to ensure that (1) capacity-building assistance is available for all four regions and all four major ethnic/racial groups, and (2) funding for capacity-building assistance is distributed in proportion to the HIV/AIDS disease burden for the four major racial and ethnic minority populations.

d. Program Requirements

The program requirements are as follows:

(1) Develop regional action plans to provide capacity-building assistance to community planning groups (CPGs) to improve the "Parity, Inclusion and Representation" of racial and ethnic minority populations in State and local HIV prevention community planning groups.

(2) Develop regional action plans to provide capacity-building assistance to CBOs and other community stakeholders that will increase their knowledge, skill and involvement in HIV prevention community planning.

(3) Provide capacity-building assistance to CPGs, CBOs, and community stakeholders to strengthen the participation of racial and ethnic minority individuals in HIV Prevention Community Planning and the effectiveness of HIV Prevention Community Planning. Examples include, but are not limited to, conflict management, understanding community planning, prioritization strategies, leadership development, group and meeting facilitation, cultural competence, and public health policy analyses (a more complete list will be provided in the program announcement). These services are to be provided through the use of the following mechanisms: Information Transfer, Skills Building, Technical Consultation, Technical Services, and Technology Transfer.

(4) Create, utilize, and support regionally-based resource networks that include the applicant and coalition members' current and proposed staff, researchers, academicians, consultants, and other subject matter experts, and may include collaborative relationships. Emphasize the use of locally-based consultants and experts. Supportive services for the resource networks include, but are not limited to, developing training materials (information transfer), diffusion of best program practices and intervention models (technology transfer), and conducting training (skills building) for consultants to help them deliver effective and efficient services that follow national standards of practice and compliment CDC's standards and expectations for conducting effective community planning and HIV prevention services.

(5) Develop and implement a plan for targeting, engaging, and maintaining long-term capacity-building relationships with CPGs, CBOs, and community stakeholders. The plan should include strategies for conducting ongoing needs assessments and developing tailored capacity-building packages to be delivered over the long-term and as appropriate to the identified needs. This plan must be shared with the appropriate health departments and CPGs.

(6) Identify, collaborate with, and complement the capacity-building resources currently available in the region to avoid duplication of effort.

(7) Develop and implement a system that responds to requests for assistance in strengthening HIV Prevention Community Planning. This system must include mechanisms for assessing and prioritizing requests; linking requests to other capacity-building resources and to services provided in Priority Areas (1), (2) and (3); delivering services; and conducting quality assurance.

(8) Ensure that capacity-building assistance is allocated according to priority needs for "Community Planning Participation and Effectiveness" in CPGs needing increased Parity,

Inclusion and Representation among racial and ethnic minority members and community stakeholders.

(9) Design a marketing plan that promotes and educates CBOs and community stakeholders about the HIV prevention community planning process.

(10) Coordinate program activities with appropriate national, regional, State, and local HIV prevention programs, capacity-building providers, and community planning groups.

D. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Applicant Organization's Experience and Capacity
2. Justification of Need [Priority Area (3) only]
3. Program Plan
4. Program Evaluation Plan
5. Communication and Dissemination Plan
6. Plan for Acquiring Additional Resources
7. Budget and Staffing Breakdown and Justification (not scored)
8. Training and Technical Assistance Plan (not scored)

Site visits by CDC staff may be conducted before final funding decisions are made. A fiscal Recipient Capability Assessment (RCA) may be required of some applicants before funds are awarded.

Dated: August 31, 1999.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention.

[FR Doc. 99–23152 Filed 9–3–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health

Draft Document "Building Safer Highway Work Zones: Measures To Prevent Worker Injuries From Vehicles and Equipment."

AGENCY: Centers for Disease Control and Prevention (CDC), National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (DHHS).

ACTION: Request for comments.

SUMMARY: NIOSH is seeking public comments on the draft document, "Building Safer Highway Work Zones: Measures to Prevent Worker Injuries From Vehicles and Equipment." The draft document synthesizes current work zone safety research and practice with information obtained at a workshop sponsored by NIOSH December 2–4, 1998, and attended by 50 representatives from labor, industry, government, and academia. The four broad workshop discussion topics were: Safety of workers on foot around traffic vehicles, safe operation of vehicles and equipment within the work zone, internal work zone traffic control, and special issues associated with night operations. Individuals will provide NIOSH with comments regarding the technical and scientific aspects of the document. Persons wishing to obtain a copy of the draft document should respond to the contact person listed below.

DATES: Comments concerning this document should be submitted by November 8, 1999. Persons wishing to obtain a copy of the draft document should contact Diane Miller, Docket Office Manager, Education and Information Division, NIOSH, CDC, 4676 Columbia Parkway, Mailstop C–34, Cincinnati, Ohio, 45226, telephone 513/533–8450, e-mail address: dmm2@cdc.gov. Comments may be submitted in writing to the NIOSH Docket Office.

FOR FURTHER INFORMATION CONTACT: Stephanie Pratt, Division of Safety Research, NIOSH, CDC, 1095 Willowdale Road, Mailstop P–180, Morgantown, West Virginia, 26505, telephone 304/285–5992, e-mail address: sgp2@cdc.gov.

Linda Rosenstock, M.D.,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 99–23217 Filed 9–3–99; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Refugee Unaccompanied Minor Placement Report; Refugee Unaccompanied Minor Progress Report.

OMB No.: 0970–0034.

Description: These two reports collect information necessary to administer the refugee unaccompanied minor program. The ORR–3 (Placement Report) is submitted to ORR by the service provider agency at initial placement and whenever there is a change in the child's status, including termination from the program. The ORR–4 (Progress Report) is submitted annually and records the child's progress towards the goals listed in the child's case plan.

Respondents: Not-for-profit institutions.

Annual Burden Estimates

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Placement Report	10	15	.417	63
Progress Report	10	25	.250	63

Estimated Total Annual Burden Hours: 126.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW; Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: ACF Desk Officer.

Dated: August 25, 1999.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 99–23167 Filed 9–3–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2695]

Agency Information Collection Activities; Announcement of OMB Approval; Survey of Biomedical Equipment Manufacturers for Year 2000 Compliance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Survey of Biomedical Equipment Manufacturers for Year 2000 Compliance" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Thomas B. Shope, Office of Science and Technology (HFZ–140), Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–3314, ext. 132, or FAX 301–443–9101.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 16, 1999 (64 FR 44529), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0417. The approval expires on February 29, 2000. A copy of the supporting statement for this information collection is available on the Internet at "http://www.fda.gov/ohrms/dockets".

Dated: August 30, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–23128 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2998]

Asahi Denka Kogyo K.K.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K.K. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of tridecanol phosphite condensation product with butylidenebis[2-(1,1-dimethylethyl)-5-methyl-4,1-phenylene] as an antioxidant and/or stabilizer in styrene-isoprene-styrene copolymer to be used as a component of pressure-sensitive adhesives intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4694) has been filed by Asahi Denka Kogyo K.K., 5–2–13, Shirahata, Urawa City, Saitama 336, Japan. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of tridecanol phosphite condensation product with butylidenebis[2-(1,1-dimethylethyl)-5-methyl-4,1-phenylene] as an antioxidant and/or stabilizer in styrene-isoprene-styrene copolymer to be used as a component of pressure-sensitive adhesives intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 25, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–23130 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2999]

Ciba Specialty Chemicals; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba Specialty Chemicals has filed a petition proposing that the food additive regulations be amended to provide for the safe use of benzenepropanoic acid, 3,5-bis(1,1-dimethylethyl)-4-hydroxy-, C7-C9-branched alkyl esters as an antioxidant and/or stabilizer for adhesives.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4686) has been filed by Ciba Specialty Chemicals, 540 White Plains Rd., P.O. Box 2005, Tarrytown, NY 10591–9005. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of benzenepropanoic acid, 3,5-bis(1,1-dimethylethyl)-4-hydroxy-, C7-C9-branched alkyl esters as an antioxidant and/or stabilizer for adhesives.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 25, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–23129 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 94F–0334]

Morton International, Inc.; Filing of Food Additive Petition; Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Morton International, Inc., to indicate that the petitioner has proposed that the food additive regulations be amended to provide for the safe use of methyltin-2-mercaptoethyloleate sulfide used alone or in combination with several other optional substances as a heat stabilizer for use in rigid poly(vinyl chloride) and rigid vinyl chloride copolymers intended for use in the manufacture of pipes and pipe fittings that will contact water in food processing plants.

FOR FURTHER INFORMATION CONTACT: Vivian M. Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of October 21, 1994 (59 FR 53193), FDA announced that a food additive petition (FAP 4B4430) had been filed by Morton International, Inc., 2000 West St., Cincinnati, OH 45215. The petition proposed that the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of methyltin-2-mercaptoethyloleate sulfide mixtures as heat stabilizers for use in polyvinyl chloride pipes intended for transporting water for food contact.

Subsequent to the publication of the filing notice, FDA has determined that methyltin-2-mercaptoethyloleate sulfide is a complex mixture of one or more of the following:

1. 9-octadecenoic acid (Z)-, 2-mercaptoethyl ester, reaction products with dichlorodimethylstannane, sodium sulfide, and trichloromethylstannane (CAS Reg. No. 68442–12–6); or

2. Fatty acids, tall oil, 2-mercaptoethyl esters, reaction products with dichlorodimethylstannane, 2-mercaptoethyl decanoate, 2-mercaptoethyl octanoate, sodium sulfide, and trichloromethylstannane (CAS Reg. No. 151436–98–5); or

3. Fatty acids, tall oil, 2-mercaptoethyl esters, reaction products with dichlorodimethylstannane, sodium sulfide, and trichloromethylstannane (CAS Reg. No. 201687–57–2).

In addition, FDA has determined that the petition also proposes that the methyltin-2-mercaptoethyloleate sulfide may be used in combination with the following optional substances:

1. 2-mercaptoethyl oleate (CAS Reg. No. 59118–78–4), or 2-mercaptoethyl tallate (CAS Reg. No. 68440–24–4), or 2-mercaptoethyl octanoate (CAS Reg. No. 57813–59–9), or 2-mercaptoethyl decanoate (CAS Reg. No. 68928–33–6), alone or in combination;

2. 2-mercaptoethanol (CAS Reg. No. 60–24–2);

3. Mineral oil (CAS Reg. No. 8012–95–1); or

4. Butylated hydroxytoluene (CAS Reg. No. 128–37–0).

Finally, FDA has determined that the petition requests the use of methyltin-2-mercaptoethyloleate sulfide and the above optional substances as a heat stabilizer in rigid poly(vinyl chloride) and rigid vinyl chloride copolymers, complying with §§ 177.1950 and 177.1980, respectively. The rigid poly(vinyl chloride) and rigid vinyl chloride copolymers are intended for use in the manufacture of pipes and pipe fittings that will contact water in food processing plants.

Therefore, FDA is amending the filing notice of October 21, 1994, to indicate that the petitioner requests that the food additive regulations be amended to provide for the safe use of methyltin-2-mercaptoethyloleate sulfide that is defined as one or more of the following:

1. 9-octadecenoic acid (Z)-, 2-mercaptoethyl ester, reaction products with dichlorodimethylstannane, sodium sulfide, and trichloromethylstannane (CAS Reg. No. 68442–12–6); or

2. Fatty acids, tall oil, 2-mercaptoethyl esters, reaction products with dichlorodimethylstannane, 2-mercaptoethyl decanoate, 2-mercaptoethyl octanoate, sodium sulfide, and trichloromethylstannane (CAS Reg. No. 151436–98–5); or

3. Fatty acids, tall oil, 2-mercaptoethyl esters, reaction products with dichlorodimethylstannane, sodium sulfide, and trichloromethylstannane (CAS Reg. No. 201687–57–2); as a heat stabilizer for use in rigid poly(vinyl chloride) and rigid vinyl chloride copolymers, complying with §§ 177.1950 and 177.1980, respectively, intended for use in the manufacture of pipes and pipe fittings that will contact water in food processing plants.

In addition, FDA is amending the filing notice of October 21, 1994, to indicate that the petitioner requests that the food additive regulations be amended to provide for the safe use of methyltin-2-mercaptoethyloleate sulfide in combination with the following optional substances:

1. 2-mercaptoethyl oleate (CAS Reg. No. 59118–78–4), or 2-mercaptoethyl tallate (CAS Reg. No. 68440–24–4), or 2-mercaptoethyl octanoate (CAS Reg. No. 57813–59–9), or 2-mercaptoethyl decanoate (CAS Reg. No. 68928–33–6), alone or in combination;

2. 2-mercaptoethanol (CAS Reg. No. 60–24–2);

3. Mineral oil (CAS Reg. No. 8012–95–1); or

4. Butylated hydroxytoluene (CAS Reg. No. 128–37–0); as a heat stabilizer for use in rigid poly(vinyl chloride) and rigid vinyl chloride copolymers, complying with §§ 177.1950 and 177.1980, respectively, intended for use in the manufacture of pipes and pipe fittings that will contact water in food processing plants.

When the petition was first filed on October 21, 1994, it contained an environmental assessment (EA). In that notice of filing, the agency announced that it was placing the EA on display at the Dockets Management Branch for public review and comment. No comments were received. In the **Federal Register** of July 29, 1997 (62 FR 40570), FDA published revised regulations under part 25 (21 CFR part 25), which became effective on August 28, 1997. On June 4, 1999, the petitioner submitted a claim of categorical exclusion under the new § 25.32(j), in accordance with the procedures in § 25.15(a) and (d). The agency has reviewed the claim of categorical exclusion under § 25.32(j).

The agency has determined under § 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: August 18, 1999.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–23127 Filed 9–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–98–4002]

Exchange of Letters Between the Food and Drug Administration and the Canadian Food Inspection Agency

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of an exchange of letters (EOL's) between FDA and the Canadian Food Inspection Agency. The purpose of the EOL's is to enhance the exchange of information in emergency situations.

DATES: The agreement became effective March 2, 1998.

FOR FURTHER INFORMATION CONTACT: Ellen F. Morrison, Office of Regulatory Affairs (HFC–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1240.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this EOL.

Dated: August 27, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Food and Drug Administration
Office of Regulatory Affairs
Rockville MD 20857

JAN - 5 1998

Mr. Andre' Gravel
Vice President for Programs
Canadian Food Inspection Agency
59 Camelot Drive
Nepean, Ontario, Canada K1A0Y9

Dear Mr. Gravel:

The U.S. Food and Drug Administration (FDA) is pleased to cooperate with your government and the government of Mexico to enhance our collective activities in the interest of public health protection through the exchange of timely information in emergency situations where such information is believed to be a value to the other participating party in protecting the health of consumers against unsafe marketed products. Additionally, we strongly agree with the value of, and need for assisting each other, upon request and within our authority, in investigating emergency situations involving human food and animal food products manufactured in or distributed from the other country.

FDA considers any situation which involves a serious health risk for consumers or caregivers who are exposed to an unsafe product as an "emergency situation." Such situations usually, but not always, involve significant media attention and the need to coordinate a timely or extraordinary operational response.

When FDA learns of emergency situations presenting a real or potentially serious health risk and it is known or suspected that the product has been sold or distributed in Canada or Mexico, FDA will attempt to promptly provide information to the appropriate authority on matters concerning manufacture, quality control and distribution. Such information may include, where available and if pertinent, records, reports, and other information on inspections, investigations, and analysis of marketed products.

At the request of either the Canadian or Mexican government, FDA will attempt to carry out investigations of specific situations where the findings of such investigations are deemed necessary to the adequate resolution or control of an emergency situation. Information so obtained will be forwarded in a timely manner to assist cooperating authorities in resolving the emergency and implementing appropriate measures to protect consumers.

Information provided to and received from the government of Canada or the government of Mexico will be handled as provided under "Title 21, Code of Federal Regulations,

Section 20.89." This regulation governs FDA's communications with foreign governments under the Freedom of Information Act. A copy is enclosed for your information along with a copy of the Regulatory Procedures Manual Chapter that establishes procedures for implementing this regulation.

To help ensure that this information exchange continues to work well and meets respective needs, we feel it is important that meetings be arranged, at appropriate intervals, and by mutual concurrence, for the purpose of reviewing the effectiveness of this cooperation.

The FDA's contact for these activities are as follows:

Primary: Ellen Morrison
Deputy Director
Pager# 1-888-581-6480 E-mail Address-emorriso@ora.fda.gov

Secondary: Gary Pierce
Director
Pager # 1-888-471-3576 E-mail Address-gpierce@ora.fda.gov
Division of Emergency and Investigational Operations (HFC-130)
Office of Regional Operations
U.S. Food and Drug Administration
5600 Fishers Lane
Rockville, Maryland 20857
U.S.A.
Telephone (301) 443-1240
* 24 emergency contacts with FDA/DEIO duty officer/alternate duty officer
Fax (301) 443-3757

We look forward to continuing and enhancing the excellent cooperation that we have successfully enjoyed to this date.

Sincerely yours,

Ronald G. Chesemore
Associate Commissioner
for Regulatory Affairs
U.S. Food and Drug Administration

Enclosure:

Canadian Food Inspection Agency
Agence canadienne d'inspection des aliments
Nepean, Ontario
K1A 0Y9

225-98-4002

MAR 0 2 1998

Your file Votre référence

Our file Notre référence

Mr. Ronald Chesemore
Associate Commissioner for Regulatory Affairs
United States Food and Drug Administration
Office of Regulatory Affairs
HFC-131
5600 Fishers Lane
Rockville, Maryland 20857
U.S.A.

Dear Mr. Chesemore:

Thank you for your letter of January 5, 1998 regarding information exchange in emergency situations. We also strongly agree with the need for assisting each other in investigating emergency situations involving human and animal food products.

As such, the Canadian Food Inspection Agency (CFIA) will continue the spirit of cooperation which we have had in the past. Dr. Anne MacKenzie, of our national office, has been in contact with Ellen Morrison on a number of issues relating to food emergency concerns. It is our expectation this contact will continue, and will be strengthened by our mutual agreement to meet at appropriate intervals to review the effectiveness of this cooperative effort.

The CFIA contacts for these activities are as follows:

Primary:

Dr. Anne MacKenzie
Director General, Food Inspection Directorate
59 Camelot Drive
Nepean, Ontario
K1A 0Y9
Telephone: (613) 225-2342 ext. 4188
Facsimile: (613) 228-6638
Internet: "amackenzie@em.agr.ca"
Cell: (613) 794-8521

.../2

Canada

Secondary:

Helen Spencer
A/Manager, National Inspection Initiatives
Food Inspection Directorate
59 Camelot Drive
Nepean, Ontario
K1A 0Y9
Telephone: (613) 225-2342 ext. 3785
Facsimile: (613) 228-6617
Internet: "hspencer@em.agr.ca"

With your support and assistance we can help to ensure that North America remains the world leader in food safety initiatives.

Yours sincerely,

André Gravel
A/Vice-President
Programs

c.c. A. MacKenzie
H. Spencer

[FR Doc. 99–23126 Filed 9–3–99; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1078–N]

Medicare Program; September 27 and 28, 1999, Meeting of the Practicing Physicians Advisory Council

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

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Practicing Physicians Advisory Council. This meeting is open to the public.

DATES: The meeting is scheduled for September 27, 1999, from 8:30 a.m. until 5 p.m., and September 28, 1999, from 8:30 a.m. until 1:00 p.m., e.d.t.

ADDRESSES: The meeting will be held in the Multipurpose Room/Auditorium, 1st Floor, Health Care Financing Administration Building, 7500 Security Boulevard, Baltimore, Maryland 21244 on the 27th and in the 1st Floor Media Room on the 28th.

FOR FURTHER INFORMATION CONTACT: Aron Primack, MD, MA, FACP, Executive Director, Practicing Physicians Advisory Council, Room 435–H, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, (202) 690–7874. News media representatives should contact the HCFA Press Office, (202) 690–6145.

SUPPLEMENTARY INFORMATION: The Secretary of the Department of Health and Human Services (the Secretary) is mandated by section 1868 of the Social Security Act to appoint a Practicing Physicians Advisory Council (the Council) based on nominations submitted by medical organizations representing physicians. The Council meets quarterly to discuss certain proposed changes in regulations and carrier manual instructions related to physicians' services, as identified by the Secretary. To the extent feasible and consistent with statutory deadlines, the consultation must occur before publication of the proposed changes. The Council submits an annual report on its recommendations to the Secretary and the Administrator of the Health Care Financing Administration no later than December 31 of each year.

The Council consists of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under Medicare or Medicaid in the previous year. Members of the Council include both participating and nonparticipating physicians, and physicians practicing in rural and underserved urban areas. At least 11 members must be doctors of medicine or osteopathy authorized to practice medicine and surgery by the States in which they practice. Members have been invited to serve for overlapping 4-year terms. In accordance with section 14 of the Federal Advisory Committee Act, terms of more than 2 years are contingent upon the renewal of the Council by appropriate action before the end of the 2-year term. The Council held its first meeting on May 11, 1992.

The current members are: Jerold M. Aronson, M.D.; Richard Bronfman, D.P.M.; Wayne R. Carlsen, D.O.; Mary T. Herald, M.D.; Sandral Hullett, M.D.; Stephen A. Imbeau, M.D.; Jerilynn S. Kaibel, DC; Marie G. Kuffner, M.D.; Derrick K. Latos, M.D.; Dale Lervick, O.D.; Sandra B. Reed, M.D.; Susan Schooley, M.D.; Maisie Tam, M.D.; Victor Vela, M.D.; and Kenneth M. Viste, Jr., M.D. The Council chairperson is Marie G. Kuffner, M.D.

Council members will be updated on Managed Care Provider Protections under Medicare+Choice, Documentation Guidelines, Program Fraud and Abuse, Physicians Regulatory Issues Team (PRIT), and Medicare Reform Packet Summary Information.

The agenda will provide for discussion and comment on the following topics:

- Practice Expense and Medicare Fee Schedule Changes for 2,000
- Rural Health Clinic Issues
- Carrier Advisory Committees and Provider Input
- Nursing Home Quality of Care Initiatives
- Insurance Plan Conflicts Regarding Co-payments

For additional information and clarification on the aforementioned topics call the contact person listed above.

Individual physicians or medical organizations that represent physicians that wish to make 5-minute oral presentations on agenda issues should contact the Executive Director by 12 noon, September 8, 1999, to be scheduled. Testimony is limited to listed agenda issues only. The number of oral presentations may be limited by the time available. A written copy of the presenters oral remarks should be submitted to the Executive Director no later than 12 noon, September 15, 1999 for distribution to Council members for review prior to the meeting. Physicians and organizations not scheduled to speak may also submit written comments to the Executive Director and Council members. The meeting is open to the public, but attendance is limited to the space available.

(Section 1868 of the Social Security Act (42 U.S.C. 1395ee) and section 10(a) of Pub. L. 92–463 (5 U.S.C. App. 2, section 10(a)); 45 CFR Part 11)

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

Dated: August 30, 1999.

Michael M. Hash,

Deputy Administrator, Health Care Financing Administration.

[FR Doc. 99–23121 Filed 9–3–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Proposed Collection; Comment Request; Women's Health Initiative Observational Study

SUMMARY: 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, Office of the Director, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed collection

Title: Women's Health Initiative (WHI) Observational Study. *Type of Information Collection Request:* Revision OMB #0925–0414 exp: 06/00. *Need for Use of Information Collection:* This study will be used by the NIH to evaluate risk factors for chronic disease among older women by developing and following a large cohort of postmenopausal women and relating subsequent disease development to baseline assessments of historical, physical, psychosocial, and physiologic characteristics. In addition, the observational study will complement the clinical trial (which has received clinical exemption) and provide additional information on the common causes of frailty, disability and death for postmenopausal women, namely, coronary heart disease, breast and colorectal cancer, and osteoporotic fractures. *Frequency of Response:* On occasion. *Affected Public:* Individuals and physicians. *Type of Respondents:* Women, next-of-kin, and physician's

office staff. The annual reporting burden is as follows:

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
OS Participants	82,044	.96876	.4557	36,219
Next-of-kin	2,741	1	.0835	229
Physician's Office Staff	226	1	.0835	19
Total				36,467

The annualized cost burden is $365,428.

There are no annual Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Linda Pottern, Project Officer, Women's Health Initiative Program Office, 6705 Rockledge Drive, 1 Rockledge Centre, Suite 300, MSC 7966, Bethesda, MD 20892–7966, or call (301) 402–2900 or E-mail you request, including your address to: Linda__Pottern@nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before November 8, 1999.

Dated: August 27, 1999.

Donald P. Christoferson,

Executive Officer, National Heart, Lung, and Blood Institute.

[FR Doc. 99–23220 Filed 9–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institute of Environmental Health Sciences, National Toxicology Program, Request for Data and Suggested Expert Panelists for Evaluation of the Current Status of the Frog Embryo Teratogenesis Assay—Xenopus (FETAX)

Background

The Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), with participation by 14 Federal regulatory and research agencies and programs, was established in 1997 to facilitate cross-agency communication and coordination on issues relating to validation, acceptance, and national/international harmonization of toxicological test methods. The Committee seeks to promote the scientific validation and regulatory acceptance of toxicological test methods that will enhance agencies' ability to assess risks and make decisions, and that will refine, reduce, and replace animal use whenever possible. The National Toxicology Program Interagency Center for the Evaluation of Alternative Toxicological Methods (NICEATM), provides administrative and technical support for ICCVAM, and serves as a communication and information resource. NICEATM and ICCVAM collaborate to carry out related activities needed to develop, validate, and achieve regulatory acceptance of new and improved test methods applicable to Federal agencies. These activities may include:

Test Method Workshops, which are convened as needed to evaluate the adequacy of current methods for assessing specific toxicities, to identify areas in need of improved or new testing methods, and to identify research efforts that may be needed to develop a new test method.

Expert Panel Meetings, which are typically convened to evaluate the validation status of a method following the completion of initial development and pre-validation studies. An Expert Panel is asked to recommend additional validation studies that might be helpful in further characterizing the usefulness of a method, and to identify any additional research and development efforts that might enhance the effectiveness of a method.

Independent Peer Review Panel Meetings, which are typically convened following the completion of comprehensive validation studies on a test method. Peer review panels are asked to develop scientific consensus on the usefulness and limitations of test methods to generate information for specific human health and/or ecological risk assessment purposes. Following the independent peer review of a test method, ICCVAM forwards recommendations on their usefulness to agencies for their consideration. Federal agencies then determine the regulatory acceptability of a method according to their mandates.

Evaluation of FETAX

ICCVAM and NICEATM are currently planning an Expert Panel Meeting to assess the current validation status of the Frog Embryo Teratogenesis Assay—*Xenopus* (FETAX), a method proposed for evaluating the developmental toxicity potential of chemicals (Bantle JA, 1995, FETAX—A Developmental Toxicity Assay Using Frog Embryos, *Fundamentals of Aquatic Toxicology,* 2nd ed., G.M. Rand, ed, Taylor and Francis, USA. pp. 207–230). Possible applications of FETAX to human health and environmental assessments may include screening and prioritizing compounds for further testing, evaluating complex mixtures and environmental samples, and as supplemental information in a weight-of-evidence evaluation of toxicity hazards. NICEATM is preparing a background document summarizing the initial studies and the performance characteristics of FETAX. The Expert Panel will evaluate the conclusions presented in the background document

and address the potential uses of FETAX. The Expert Panel will address additional test method development and validation efforts that should be considered that might further enhance and characterize the usefulness of FETAX for various applications and other relevant aspects of the Xenopus model.

Request for Data and Expert Names

The Center would welcome receiving data and information from completed, ongoing, or planned studies using or evaluating FETAX. Information should address the criteria for validation and regulatory acceptance provided in NIH publication 97–3981, "Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods" (http://ntp-server.niehs.nih.gov/htdocs/ICCVAM/iccvam.html). Where possible, data and information should adhere to the guidance provided in the document, "Evaluation of the Validation Status of Toxicological Methods: General Guidelines for Submissions to ICCVAM" (http://iccvam.niehs.nih.gov/doc1.htm), which is available on request from the NTP Center at the address provided below. Information submitted in response to this request will be incorporated into the background material provided to the Expert Panel. Meeting information, including date, location, and availability of the background document, will be announced in a future notice.

The ICCVAM also welcomes suggestions of scientists with relevant knowledge and experience who might be considered for the Expert Panel. For each person suggested, their name, address, and a brief summary of relevant experience and qualifications should be provided. Where possible, telephone, fax number, and/or e-mail addresses should also be provided. Information should be sent by mail, fax, or e-mail to the NTP Interagency Center for the Evaluation of Alternative Toxicological Methods by October 7, 1999. Correspondence should be directed to: Dr. William S. Stokes, NTP Interagency Center for the Evaluation of Alternative Toxicological Methods, Environmental Toxicology Program, NIEHS/NTP, MD EC–17, PO Box 12233, Research Triangle Park, NC 27709; 919–541–3398 (phone); 919–541–0947 (fax); iccvam@niehs.nih.gov (e-mail).

Dated: August 27, 1999.

Kenneth Olden,

Director, National Institute of Environmental Health Sciences.

[FR Doc. 99–23219 Filed 9–3–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org/workpl.htm.

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014.

Special Note: Please use the above address for all surface mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016 (Formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931/334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (Formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (Formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P.O. Box

88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171
Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416
Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468
DrugProof, Division of Dynacare/ Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180 (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310
Dynacare Kasper Medical Laboratories,* 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876
ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609
Gamma-Dynacare Medical Laboratories,* A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ON, Canada N6A 1P4, 519–679–1630
General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267
Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023
Info-Meth, 112 Crescent Ave., Peoria, IL 61636, 309–671–5199/800–752–1835 (Formerly: Methodist Medical Center Toxicology Laboratory)
Integrated Regional Laboratories, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784 (Formerly: Cedars Medical Center, Department of Pathology)
Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Laboratory Specialists, Inc.)
LabCorp Occupational Testing Services, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)
LabCorp Occupational Testing Services, Inc., 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/ 800–223–6339 (Formerly: MedExpress/National Laboratory Center)
LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/ 800–728–4064 (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.)
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)
Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734
MAXXAM Analytics Inc.,* 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (Formerly: NOVAMANN (Ontario) Inc.)
Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–383–5213
MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244
Methodist Hospital Toxicology Services of Clarian Health Partners, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587,
MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–4512/800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250
NWT Drug Testing, 1141 E. 3900 South, Salt Lake City, UT 84124, 801–268–2431/800–322–3361 (Formerly: NorthWest Toxicology, Inc.)
One Source Toxicology Laboratory, Inc., University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197 (Formerly: UTMB Pathology-Toxicology Laboratory)
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–341–8092
Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110 (Formerly: Centinela Hospital Airport Toxicology Laboratory)
Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400/ 800–541–7891
PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177
PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817–215–8800 (Formerly: Harris Medical Laboratory)
Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627
Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272
Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120/800–444–0106 (Formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (Formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)
Quest Diagnostics Incorporated, 8000 Sovereign Row, Dallas, TX 75247, 214–637–7236 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 972–916–3376/800–526–0947 (Formerly: Damon Clinical Laboratories, Damon/ MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006 (Formerly: SmithKline Beecham Clinical Laboratories, Doctors & Physicians Laboratory)
Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484 (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–920–7733/800–574–2474 (Formerly: Med-Chek Laboratories, Inc., Med-Chek/ Damon, MetPath Laboratories, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010 (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories)
Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA

92108–4406, 619–686–3200/800–446–4728 (Formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
Quest Diagnostics of Missouri LLC, 2320 Schuetz Rd., St. Louis, MO 63146, 314–991–1311/800–288–7293 (Formerly: Quest Diagnostics Incorporated, Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)
Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (Formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520 (Formerly: SmithKline Beecham Clinical Laboratories)
Quest Diagnostics, LLC (IL), 1355 Mittel Blvd. Wood Dale, IL 60191 630–595–3888 (Formerly: Quest Diagnostics Incorporated, MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)
San Diego Reference Laboratory, 6122 Nancy Ridge Dr., San Diego, CA 92121, 800–677–7995
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 31st St., Temple, TX 76504, 254–771–8379/800–749–3788
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 818–996–7300/800–492–0800 (Formerly: MetWest-BPL Toxicology Laboratory)
Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851

*The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the "Mandatory Guidelines for Workplace Drug Testing" (59 **Federal Register**, 9 June 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–23133 Filed 9–3–99; 8:45 am]
BILLING CODE 4160–20–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare Comprehensive Conservation Plans for Lower Suwannee National Wildlife Refuge, Florida and Cedar Keys National Wildlife Refuge, Florida

ACTION: Notice of intent to prepare Comprehensive Conservation Plans for Lower Suwannee National Wildlife Refuge in Dixie and Levy Counties, Florida, and Cedar Keys National Wildlife Refuge in Levy County, Florida, and notice of meeting seek public participation.

SUMMARY: This notice advises the public that Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a comprehensive conservation plan and an environmental document (environmental assessment) for both Lower Suwannee National Wildlife Refuge in Dixie and Levy Counties, Florida, and Cedar Keys National Wildlife Refuge in Levy County, Florida. The Service is furnishing this notice in compliance with Service comprehensive conservation plan policy and the National Environmental Policy Act and implementing regulations to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues, opportunities, and concerns for inclusion in the environmental documents.

DATES: The Service will hold a public scoping meeting on Tuesday, September 21, 1999, from 7 p.m.–9 p.m. at the Tommy Usher Center in Chiefland, Florida. A second public meeting will be held to review the draft comprehensive conservation plans. It is anticipated that the drafts will be available for public review by June 2000. An announcement of the meeting will appear in the **Federal Register**.

ADDRESSES: Address comments and requests for more information to: Refuge Manager, Lower Suwannee National Wildlife Refuge, 16450 NW 31st Place, Chiefland, Florida 32626–4874.

SUPPLEMENTARY INFORMATION: It is the policy of the Fish and Wildlife Service to have all lands within the National Wildlife Refuge System managed in accordance with an approved comprehensive conservation plan. The plan guides management decisions and identifies refuge goals, objectives, and strategies for achieving refuge purposes. Public input into this planning process is encouraged. The plan will provide other agencies and the public with a clear understanding of the desired conditions of the refuge and how the Service will implement management strategies. Some of the issues to be addressed in the plan include the following:

(a) Public use management;

(b) Habitat management;

(c) Wildlife population management; and

(d) Cultural resource identification and protection.

Alternatives that address the issues and management strategies associated

with these topics will be included in the environmental documents. A separate plan will be prepared for each refuge.

The Lower Suwannee National Wildlife Refuge was established on April 10, 1979, under the authority of the Fish and Wildlife Act to protect the lower Suwannee River ecosystem. The 52,935-acre refuge, which is predominantly wetlands, is bisected by 20 miles of Stephen Foster's famous Suwannee River and includes 26 miles of the Gulf Coast.

The Cedar Keys National Wildlife Refuge was established by Executive Order 5158 on July 16, 1929, as a breeding ground for migratory birds. The refuge supports one of the largest nesting colonies of pelicans, herons, egrets and ibis in north Florida, and consists of 12 islands ranging in size from 1 to 120 acres.

Dated: August 20, 1999.

H. Dale Hall,

Acting Regional Director.

[FR Doc. 99–23199 Filed 9–3–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Draft Environmental Impact Statement for the White River Amphitheatre, Muckleshoot Indian Reservation, King County, Washington

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the date for the public/Environmental Impact Statement (EIS) design hearing on the Draft Environmental Impact Statement for the White River Amphitheatre, Muckleshoot Indian Reservation, King County, Washington, which was announced in the **Federal Register** on Friday, August 27, 1999, has been changed from September 29, 1999, to September 22, 1999. This change is being made to coincide with a meeting date previously announced through a variety of other media.

DATES: The public EIS/design hearing will be held on September 22, 1999, from 6 p.m. to 9 p.m.

ADDRESSES: The public EIS/design hearing will be held at the Auburn Performing Arts Center, Auburn, Washington.

FOR FURTHER INFORMATION CONTACT: June Boynton, (503) 231–6749.

SUPPLEMENTARY INFORMATION: The site of the public EIS/design hearing is accessible to people with disabilities. Anyone requiring written materials in alternative formats, sign language interpreters, physical accessibility accommodations or some other reasonable accommodation may request these by contacting (206) 440–4528, by no later than September 8, 1999.

This notice is published in accordance with section 1503.1 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508), implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.

Dated: August 31, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–23174 Filed 9–3–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

[OR–010–1430–00; GP9–0295]

Meeting Notice for the Southeast Oregon Resource Advisory Council

AGENCY: Lakeview District, Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Southeast Oregon Resource Advisory Council will meet at the Bureau of Land Management, Lakeview District, Hwy 395 South, Lakeview, Oregon, from 8:00 a.m. to 5:30 p.m. (PST) on October 14–15, 1999. Topics to be discussed by the Council include the Sage Grouse Conservation Strategy, a special designation of the Steens Mountain and other such matters as may reasonably come before the Council. The meeting is open to the public. Public comment is scheduled for 11:00 a.m. to 12:00 noon on October 14th.

DATED: August 25, 1999.

FOR FURTHER INFORMATION, CONTACT: Julie Bolton, Bureau of Land Management, Lakeview District Office, HC 10, Box 337, Lakeview, OR 97630, (Telephone: 541/947–2177).

Steve Ellis,

Designated Federal Official.

[FR Doc. 99–23146 Filed 9–3–99; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA920–1310–03: CACA 39392]

California: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease CACA 39392 for lands in Kern County, California, was timely filed and was accompanied by all the required rentals and royalties accruing from June 1, 1999, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to amend lease terms for rentals and royalties at the rate of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease CACA 39392 effective June 1, 1999, subject to the original terms and conditions of the lease and the increased rental and royalty rates cites above.

For further information contact: Bonnie Edgerly, Land Law Examiner, California State Office (916) 978–4370.

Dated: August 23, 1999.

Leroy M. Mohorich,

Chief, Branch of Energy, Mineral Science, and Adjudication.

[FR Doc. 99–23147 Filed 9–3–99; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Alaska OCS Region, Beaufort Sea, Oil and Gas Lease Sale 176

AGENCY: Minerals Management Service, Interior.

ACTION: Call for Information and Nominations.

In accordance with the Final Outer Continental Shelf (OCS) Oil and Gas Leasing Program 1997 to 2002, the Minerals Management Service (MMS), Alaska OCS Region, is proceeding with the Call for Information and Nominations (Call) for Beaufort Sea Sale 176.

Purpose of Call

The purpose of the Call is to gather information for proposed OCS Oil and Gas Lease Sale 176. This proposed sale, located in the Beaufort Sea Planning Area, is tentatively scheduled for early 2002. The Call marks the beginning of the decision process for this sale. Sale 176, if held, will be the eighth oil and gas lease sale in the Beaufort Sea Planning Area. The terms of the stipulations and Information to Lessees clauses used for the most recent sale, Sale 170 (August 5, 1998), will be used as a starting point in the planning process for Sale 176.

Comments, information and nominations are sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the formulation of this proposal and the leasing process in general. We are seeking information from you on how we should design the area to offer. The MMS is directing its focus on resolving issues early in the planning process by working with stakeholders individually and collectively, beginning with publication of the Call.

As a part of that effort, MMS intends to carry forward the cooperative relationship established for Sale 170 through the Alaska Offshore Advisory Committee. Committee membership for Sale 170 consisted of representatives of the State of Alaska, North Slope Borough, Alaska Eskimo Whaling Commission, North Slope Villages, the oil and gas industry, and the environmental community. It is expected that each of these stakeholders will again be represented on the Committee for Sale 176.

Description of Area

The area of this Call, located offshore the State of Alaska in the Beaufort Sea Planning Area as identified on the attached map, extends offshore from about 3 to approximately 60 nautical miles, in water depths from approximately 25 feet to 200 feet. A small portion of the outer limits of the sale area north of Harrison Bay drops to approximately 3,000 feet. The area available for nominations and comments consists of approximately 1,898 whole and partial blocks (about 9.9 million acres). A large scale map of the Beaufort Sea Planning Area (hereinafter referred to as the Call map) showing boundaries of the area on a block-by-block basis is available by written request to the Attention of the Records Manager at the address given below, or by telephone request at (907) 271–6621. Copies of Official Protraction Diagrams (OPDs) are also available for $2 each.

Alaska OSC Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska, 99508–4302, http://www.mms.gov/alaska

Environmental Information

The MMS has acquired a substantial amount of information, including that gained through the use of traditional knowledge, on the issues and concerns related to oil and gas leasing in the Beaufort Sea.

An extensive environmental, social, and economic studies program has been underway in this area since 1975. The emphasis has been on geologic mapping, environmental characterization of biologically sensitive habitats, endangered whales and marine mammals, physical oceanography, ocean-circulation modeling, and ecological and sociocultural effects of oil and gas activities.

Information on the studies program, completed studies, and a program status report for continuing studies in this area may be obtained from the Chief, Environmental Studies Section, Alaska OCS Region, by telephone request at (907) 271–6577, or by written request at the address stated under Description of Area. A request may also be made via the Alaska Region website at www.mms.gov/alaska/ref/pubindex/pubsindex.htm.

Instructions on Call

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska 99508–4302. You may also comment via the Internet to http://www.mms.gov/alaska. Please submit Internet comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include "Attn: [RIN number (if applicable)] and your name and return address in you Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly at (907) 271–6621. Finally, you may hand-deliver comments to Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska 99508–4302. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business, hours. Individual respondents may request that we withholding their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The MMS is requesting comments from all interested parties on all aspects of the Sale 176 proposal including comments on:

Geology
Environment
Biological resources
Archaeological resources
Social and economic conditions
Potential conflicts

or other information that might bear upon potential leasing and development in the Call area.

1. Oil and Gas Interest Areas

Specific nominations are being sought regarding the oil and gas industry area(s) of interest. The MMS is soliciting nominations of blocks that are of significant industry interest for exploration and development. Nominations should focus only on those blocks of significant interest, thereby eliminating early in the process those blocks of low interest where there may be high environmental, subsistence or other resource values.

Nominations must be depicted on the Call map by outlining the area(s) of interest along block lines. Nominators are asked to submit a list of whole and partial blocks nominated (by OPD and block number) to facilitate correct interpretation of their nominations on the Call map. Although the identities of those submitting nominations become a matter of public record, the individual nominations are proprietary information.

Nominators also are requested to rank blocks nominated according to priority of interest (e.g., priority 1 (high), or 2 (medium). Blocks nominated that do not indicate priorities will be considered priority 3 (low). Nominators must be specific in indicating blocks by priority and be prepared to discuss their range of interest and activity regarding the nominated area(s). The telephone

number and name of a person to contact in the nominator's organization for additional information should be included in the response. This person will be contacted to set up a mutually agreeable time and place for a meeting with the Alaska OCS Regional Office to present their views regarding the company's nominations.

The MMS is particularly interested in industry views on tailoring the area being offered to include only those blocks close to existing of foreseeable infrastructure. A discussion of the merits or demerits of this approach will assist MMS in developing a proposal that would promote the development of smaller fields in the area of existing infrastructure while preserving opportunities for industry to explore for reasonably developable prospects. Areas not near existing infrastructure, but within the Call area, should be included in nominations if there is compelling evidence that a field of sufficient size to warrant a stand-along operation may exist.

2. Timing of the Sale Process

The following is a tentative schedule, allowing for a sale date of early 2002. Approximate dates for actions, decisions and consultation points are:

Milestones	Dates
Comments Due on the Call	Oct. 1999.
Area Identification and Notice of Intent to Prepare an EIS.	Dec. 1999.
Scoping Meetings	Jan. 2000.
Draft EIS filed with EPA	Oct. 2000.
Hearings on Draft EIS Held	Nov. 2000.
Comments Due on Draft EIS	Jan. 2001.
Consistency Determination	July 2001.
Final EIS Filed with EPA and Proposed Notice of Sale available.	July 2001.
Governor's Comments Due on Proposed Notice of Sale.	Sept. 2001.
Final Notice of Sale Published	Nov. 2001.
Sale	Jan. 2002.

3. Relation to Coastal Management Plans

Comments also are sought on potential conflicts with approved local coastal management plans (CMP) that may result from the proposed sale and future OCS oil and gas activities. These comments should identify specific CMP policies of concern, the nature of the conflicts foreseen, and steps that MMS could take to avoid or mitigate the potential conflicts. Comments may be in terms of broad areas or restricted to particular blocks of concern. Commenters are requested to list block numbers or outline the subject area on the large-scale Call map.

4. The General Process

Suggestions on ways that may improve the planning and decision process for oil and gas lease sales in general are encouraged. These comments need not be restricted to the individual sale process. Comments on the entire process, including formulation of the 5-year program, the environmental analysis, and the conduct of the sales, will be useful to MMS in our ongoing effort to improve the process.

Response Date

Nominations and comments must be received no later than 45 days following publication of this document in the **Federal Register** in envelopes labeled "Nominations for Proposed Beaufort Sea Lease Sale 176," or "Comments on the Call for Information and Nominations for Proposed Beaufort Sea Lease Sale 176," as appropriate. The original Call map with indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Alaska OCS Region, Minerals Management Service, 949 East 36th Avenue, Room 308, Anchorage, Alaska, 99508–4302.

Use of Information From Call

Information submitted in response to this Call will be used for several purposes. Responses will be used to:

Help identify areas of potential oil and gas development

Identify environmental effects and potential gas conflicts

Assist in the scoping process for the EIS

Develop possible alternatives to the proposed action

Develop lease terms and conditions/ mitigating measures

Identity potential conflicts between oil and gas activities and the Alaska CMP

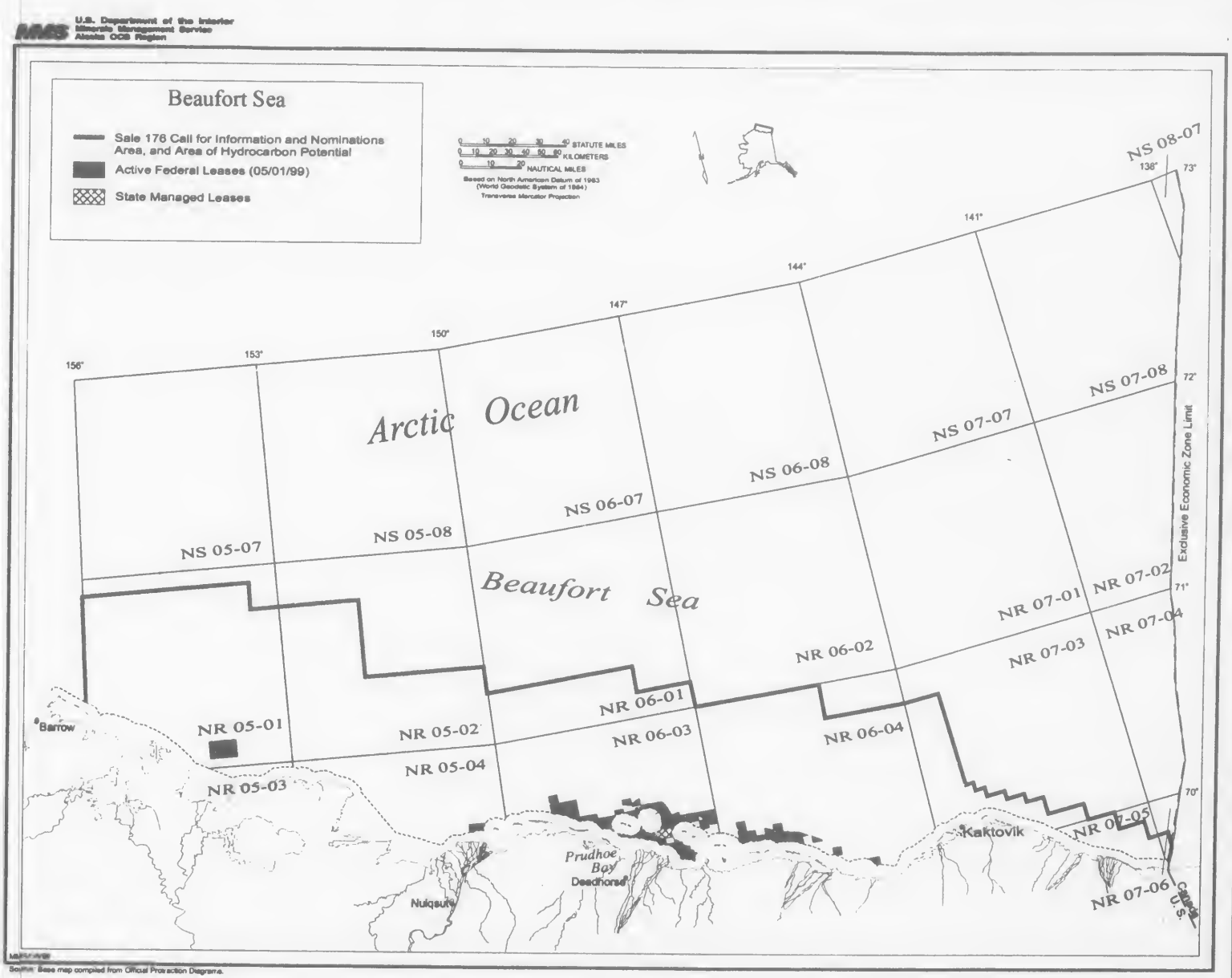
This Call does indicate a decision to lease. If a decision is made to go forward with an oil and gas lease sale, the final delineation of the area for possible leasing and the terms and conditions of the sale will be made at a later date. Decisions will be made in compliance with all applicable laws including requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), as amended, and with established departmental procedures.

Dated; August 30, 1999.

W.C. Rosenbusch,

Director, Minerals Management Service.

BILLING CODE 4310–MR–M



BILLING CODE 4310-MR-C

[FR Doc. 99–23124 Filed 9–3–99; 8:45 am]
BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan Amendment/Environmental Impact Statement Being Prepared for Hampton National Historic Site

AGENCY: National Park Service; Interior.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the upcoming public meeting to solicit input on general management plan for Hampton National Historic Site. This is a preliminary step in the preparation of a General Management Plan (GMP) for this site. The draft GMP will be published in Fall of 1999.

Public Meetings

Date and Time: Thursday, September 16, 1999 at 7:00 PM; Again, Thursday, September 16, 1999 at 7:00 PM.

Address: United Methodist Church, 501 Hampton Lane, Townson, MD 21286, (410) 823–1309, Ext. 223.

FOR FURTHER INFORMATION CONTACT: Superintendent, Hampton National Historic Site, 535 Hampton Lane, Townson, Maryland 21286, Tel: (410) 962–0688.

Dated: August 25, 1999.

Deirdre Gibson,

Program Manager, PP&NR, Philadelphia Support Office.

[FR Doc. 99–23154 Filed 9–3–99; 8:45 am]
BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places;Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 28, 1999. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by September 22, 1999.

Carol D. Shull,

Keeper of the National Register.

Alabama

Chambers County

Fairfax Historic District (Valley, Alabama, and the West Point Manufacturing Company MPS), Roughly bounded by River Rd., Spring St., Lamer St., Derson St., Combs St., and Cussetta Rd., Valley, 99001177

Shawmut Historic District (Valley, Alabama, and the West Point Manufacturing Company MPS), Roughly bounded by 25th Blvd., 29th Blvd., 20th Ave., 35th St., and 38th Blvd., Valley, 99001176

California

Inyo County

Coso Rock Art District, Address Restricted, China Lake vicinity, 99001178

Sacramento County

Sacremento Hall of Justice, 813 6th St., Sacremento, 99001179

San Diego County

Sunnyslope Lodge, 3733 Robinson Mews, San Diego, 99001180

San Mateo County

Seven Oaks, 20 El Cerrito Dr., San Mateo, 99001181

Colorado

Jefferson County

Reno Park Addition Historic District, Roughly bounded by Allison St., Ralston Rd., Yukon St., and Reno Dr., Arvada, 99001183

Stocke—Walter Addition Historic District, Roughly along Saulsbury St., Ralston Rd., Grandview Ave., and Reed St., Arvada, 99001182

Guam

Guam County

Gilan, Address Restricted, Harmon Village vicinity, 99001185

Sumay Cemetery, Marine Dr., Comnavmarians, Agat/Santa Rita, 99001184

Maine

Androscoggin County

Poland Spring Beach House, (Former), ME 26, 0.1 me. E of jct. with Skellinger Rd., South Poland vicinity, 99001191

Cumberland County

Dunning, Deacon Andrew, House, Mountain Rd., 0.6 mi. SE of jct. with ME 123, North Harpswell, 99001188

Ryefield Bridge, Bow St. over Crooked River, Stuarts Corner vicinity, 99001193

Franklin County

New Sharon Bridge, S of ME 2 over Sandy River, New Sharon, 99001189

Hancock County

Cleftstone, 92 Eden St., Bar Harbor, 99001192

Knox County

High Street Historic District (Boundary Increase), Jct. of Main St. and Atlantic Ave., Camden, 99001186

Pleasant River Grange No. 492, Round Island Rd., 0.15 mi. E of jct. with N. Haven Rd., Vinalhaven vicinity, 99001190

Penobscot County

Battleship Maine Monument, Jct. of Main and Cedar Sts., Bangor, 99001187

Ohio

Tuscarawas County

Fisher, E.D., House, 432 S. Park Ave., Bolivar, 99001194

Pennsylvania

Lackawanna County

North Scranton Junior High School, 1539 N. Main Ave., Scranton, 99001197

York County

Consumers Cigar Box Company, 121 First Ave., Red Lion, 99001196

Virginia

Charles City County

Dogham, Doggams, 1601 Dogham Ln., Charles City vicinity, 99001200

Mecklenburg County

Wood, Judge Henry, Jr. House, 105 Sixth St., Clarksville, 99001201

New Kent County

Crump's Mill and Millpond, 9065 Crump's Mill Rd., Quinton vicinity, 99001199

Norfolk Independent City

Riverview, Roughly bounded by LaVallette Ave., Beach Ave. on the Lafayette River, and Columbus Ave., Norfolk, 99001198

Wisconsin

Vernon County

Upper Kickapoo Valley Prehistoric Archeological District, Address Restricted, La Farge vicinity, 99001202

[FR Doc. 99–23185 Filed 9–3–99; 8:45 am]
BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: September 9, 1999 at 11:00 a.m.

PLACE: Room 101, 500 E Street, S.W., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none

2. Minutes
3. Ratification List
4. Inv. No. 731–TA–25 (Review) (Anhydrous Sodium Metasilicate from France)—briefing and vote. (The Commission will transmit its determination to the Secretary of Commerce on September 20, 1999.)
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: September 1, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–23301 Filed 9–2–99; 1:16 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Information Collection under Review: Notice of Naturalization Oath Ceremony.

The Department of Justice, Immigration and Naturalization Service (INS has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 23, 1999 at 64 FR 33520, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 7, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Extension of currently approved collection.

(2) Title of the Form/Collection: Notice of Naturalization Oath Ceremony.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form N–445. Adjudications Division, Immigration and Naturalization Service.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals and Households. The information furnished on this form refers to events that may have occurred since the applicant's initial interview and prior to the administration of the oath of allegiance. Several months may elapse between these dates and the information that is provided assists the officer to make and render an appropriate decision on the application.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 650,000 responses at approximately 5 minutes (.083) hours per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 53,950 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, US Department of Justice, Room 5307, 425 I Street, NW, Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center 1001 G Street, NW, Washington, DC 20530.

Dated: August 31, 1999.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–23100 Filed 9–3–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information collection Activities: Proposed Collection; Comment request.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Information Collection Under Review: Application To Replace Alien Registration Card.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 23, 1999 at 64 FR 33519, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 7, 1999. this process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Stuart Shapiro,

Department of Justice Desk office, Room 10235, Washington, DC 20530; 202–395–7316.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information collection:* Extension of currently approved collection.

(2) *Title of the Form/Collection:* Application to Replace Alien Registration Card.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–90. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Not-for-profit institutions. The information collected will be used by the INS to determine eligibility for an initial Alien Registration Card, or to replace a previously issued card.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 410,799 responses at 55 minutes (.916) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 376,292 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, US Department of Justice, room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Richard A. Sloan,

Department Clearance Officer, United States Department of Justice, Immigration and Naturalization Service.

[FR Doc. 99–23101 Filed 9–3–99; 8:45 am]

BILLING CODE 4410–10–M

NATIONAL COMMUNICATIONS SYSTEM

Telecommunications Service Priority System Oversight Committee

AGENCY: National Communications System (NCS).

ACTION: Notice of meeting.

A meeting of the Telecommunications Service Priority (TSP) System Oversight Committee will convene Tuesday, September 14, 1999 from 9 a.m. to 12 p.m. The meeting will be held at 701 South Court House Road, Arlington, VA in the NCS conference room on the 2nd floor.

—Opening/Administration Remarks

—Status of the TSP Program

—TSP Web page and electronic forms demonstration

Anyone interested in attending or presenting additional information to the Committee, please contact CDR Lynne Hicks, Manager, Office of Priority Telecommunications, (703) 607–4930.

Mr. Frank McClelland,

Federal Register Liaison Officer, National Communications System.

[FR Doc. 99–23200 Filed 9–3–99; 8:45 am]

BILLING CODE 5001–08–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Company, et al.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an amendment to Facility Operating License No. NPF–49 issued to Northeast Nuclear Energy Company (NNECO or the licensee) for operation of Millstone Nuclear Power Station, Unit No. 3 (MP3), located in New London County, Connecticut.

The proposed amendment would change Technical Specification (TS) 1.40, "Spent Fuel Pool Storage Pattern"; 1.1, "3–OUT–OF–4 AND 4–OUT–OF–4"; 3/4.9.1.2, "Boron Concentration"; 3/4.9.7, "Crane Travel—Spent Fuel Storage Areas"; 3/4.9.13, "Spent Fuel Pool—Reactivity"; 3.9.14, "Spent Fuel Pool—Storage Pattern"; 5.6.1.1, "Design Features—Criticality"; and 5.6.3, "Design Features—Capacity." In addition, the proposed amendment would replace figures 3.9–1 and 3.9–2 with 4 new figures and make changes to the TS Bases consistent with changes to their respective TS sections. These changes are being made to support the proposed increase in the capacity of the spent fuel pool at MP3 from 756 assemblies to 1,860 assemblies (an increase of 1,104).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10CFR50.92, NNECO has reviewed the proposed changes and has concluded that they do not involve a Significant Hazards Consideration (SHC). The basis for this conclusion is that the three criteria of 10CFR50.92(c) are not compromised. The proposed changes do not involve a significant hazard because they would not;

2.1 Involve a significant increase in the probability or consequences of an accident previously evaluated.

In the analysis of safety issues concerning the expanded pool storage capacity, NNECO has considered the following potential accident scenarios;

a. A spent fuel assembly drop with control rod and handling tool

b. A fuel pool gate drop

c. Potential damage due to a seismic event

d. Fuel assembly misloading/drop or pool temperature exceeding 160°F

e. An accidental drop of a rack module during installation activity in the pool

The probability that any of the first four accidents in the above list can occur is not significantly increased by the modification itself. All work in the pool area will be controlled and performed in strict accordance with specific written procedures. As for an installation accident, safe load paths will be established that will prevent heavy loads from being transported over the spent fuel. Proper functioning of the cranes will be checked and verified before rack installation, and appropriate administrative controls imposed. All lift rigging and the crane/hoist system will be verified to comply with applicable plant and site procedures. All heavy lifts will be performed in accordance with established station procedures, which will comply with NUREG–0612, "Control of Heavy Loads at Nuclear Power Plants." These actions will minimize the possibility of a heavy load drop accident. Fuel assembly handling procedures and techniques are not affected by adding spent fuel racks, and the probability of a fuel handling accident or misloading is not increased.

Accordingly, the proposed modification does not involve a significant increase in the probability of an accident previously evaluated.

NNECO has evaluated the consequences of an accidental drop of a fuel assembly in the spent fuel pool. The results show that such an accident will not distort the racks sufficiently to impair their functionality. The minimum subcriticality margin, k_{eff} less than or equal to 0.95, will be maintained. The radiological consequences of a fuel assembly drop are not increased from the existing postulated fuel drop accident in Millstone Unit No. 3 FSAR [Final Safety Analysis Report] Section 15.7.4. Thus, the consequences of such an accident remain acceptable, and are not different from any previously evaluated accidents that the NRC has reviewed and accepted.

The consequences of an accidental drop of a fuel pool gate onto racks has been evaluated. The results show that such an accident will not distort the racks sufficiently to impair their functionality. The minimum subcriticality margin, k_{eff} less than or equal to 0.95, will be maintained. In addition, the Technical Specifications do not allow fuel to be under a fuel pool gate when one is moved. The analysis indicates no radiological consequences from this postulated accident. Thus, the consequences of such an accident remain acceptable, and are not different from any previously evaluated accidents that he NRC has reviewed and accepted.

The consequences of a design basis seismic event have been evaluated and found acceptable. The proposed additional racks and existing racks have been analyzed in their new configuration and found safe and impact-free during seismic motion, save for the baseplate-to-baseplate impacts of the proposed additional racks which are shown to cause no damage to the racks[,] cells[,] or Boral. The structural capability of the pool walls and basemat will not be exceeded under the loads. Thus, the consequences of a seismic event are not significantly increased.

The consequences of a misloading/drop of a fuel assembly during fuel movement have been evaluated. The minimum subcriticality margin, k_{eff} less than or equal to 0.95, will continue to be maintained because of the proposed pool water soluble boron related requirements. Thus, the consequences of such an accident remain acceptable, and are not different from any previously evaluated accidents that the NRC has reviewed and accepted.

The consequences of an accidental drop of a rack module into the pool during placement have been evaluated. The analysis confirmed that very limited damage to the liner could occur, which is repairable. Any small seepage occurring is well within makeup capability, and is mitigated by emergency operating procedures. All movements of racks over the pool will comply with the applicable guidelines. Therefore, the consequences of an installation accident are not increased from any previously evaluated accident.

The consequences of a spent fuel cask drop into the pool have not been considered in this submittal since NNECO is not currently licensed to move a fuel cask into the Millstone Unit No. 3 cask pit area.

Therefore, it is concluded that the proposed changes to the Technical Specifications and licensing basis for Millstone Unit No. 3 do not significantly increase the probability or consequences of any accident previously evaluated.

2.2 Create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change does not alter the operating requirements of the plant or of the equipment credited in the mitigation of the design basis accidents. Therefore, the potential for an unanalyzed accident is not created. The postulated failure modes associated with the change do not significantly decrease the coolability, criticality margin, or structural integrity of the spent fuel in the pool. The resulting structural, thermal, and seismic loads are acceptable.

Therefore, the change does not create the possibility of a new or different kind of accident from any previously analyzed.

2.3 Involve a significant reduction in the margin of safety.

The function of the spent fuel pool is to store the fuel assemblies in a subcritical and coolable configuration through all environmental and abnormal loadings, such as an earthquake, fuel assembly drop, fuel pool gate drop, or drop of another heavy object. The new rack design must meet all applicable requirements for safe storage and be functionally compatible with the other rack design in the spent fuel pool.

NNECO has addressed the safety issues related to the expanded pool storage capacity in the following areas:

1. Material, mechanical, and structural considerations
2. Nuclear criticality
3. Thermal-hydraulic and pool cooling

The mechanical, material, and structural designs of the new racks have been reviewed in accordance with the applicable provisions of NRC "OT Position for the Review and Acceptance of Spent Fuel Storage and Handling Applications", April 14, 1978, as amended January 18, 1979. The rack materials used are compatible with the spent fuel assemblies and the spent fuel pool environment. The design of the new racks preserves the proper margin of safety during abnormal loads such as a dropped fuel assembly, a postulated seismic event, a dropped fuel pool gate, and tensile loads from a stuck fuel assembly. It has been shown that such loads will not invalidate the mechanical design and material selection to safely store fuel in a coolable and subcritical configuration. Also, it has been shown that the pool structure will maintain its integrity and function during normal operation, all postulated accident sequences, and postulated seismic events.

The methodology used in the criticality analysis of the expanded spent fuel pool storage capacity meets the appropriate NRC guidelines and the ANSI [American National Standards Institute] standards. The margin of safety for subcriticality is determined by a neutron multiplication factor less than or equal to 0.95 under all accident conditions, including uncertainties. This criterion has been preserved in all analyzed accidents and seismic events.

The special circumstances regarding transitioning to the revised [T]echnical [S]pecifications was discussed. At present, NNECO estimates that there will be approximately 120 fuel assemblies stored in existing racks that will not meet the burnup/enrichment requirements for storage in these racks under the proposed Technical Specifications. During the actual reracking effort, including transfer of these assemblies from existing racks to Region 1 and 2 racks, existing soluble boron and Boraflex related requirements and surveillances will continue to be enforced. Also, when transferring these assemblies to Region 1 and 2 racks, the burnup/enrichment requirements of these racks will be enforced. After fuel transfer is complete, the revised Technical Specifications will be fully implemented. These requirements ensure that the neutron multiplication factor will remain less than or equal to 0.95 during the whole period of the rerack.

The rerack thermal hydraulic analysis is based on NNECO's January 18, 1999, submittal analysis which bound the heat load of this licensing amendment request. The rerack thermal hydraulic analysis found that, in the blocked hottest stored assembly, the local peak water temperature will remain below boiling, and the fuel clad will not experience high temperatures.

Regarding Technical Specification Surveillance 4.9.7, since the proposed change continues to meet the requirements of Technical Specification 3.9.7, that is it prohibits a crane from carrying a load greater that 2,200 lbs [pounds] over fuel in the spent fuel pool to preclude fuel damage, the margin of safety is maintained.

Thus, it is concluded that the proposed changes to the Technical Specifications and licensing basis of Millstone Unit No. 3 do not involve a significant reduction in the margin of safety at Millstone Unit No. 3.

The NRC staff has reviewed the licensee's analysis and, based upon this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 7, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in such proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 that is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut. If a request for a hearing and petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition to leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any

hearing held would take place before the issuance of any amendment.

A request for a for a hearing and a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Ms. Lillian M. Cuoco, Esquire, Senior Nuclear Counsel, Northeast Utilities Service Company, P. O. Box 270, Hartford, CT 06141–0270, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(l)–(v) and 2.714(d).

Pursuant to the Commission's regulations, 10 CFR 2.1107, the Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties."

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors" (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, subpart G apply.

For further details with respect to this action, see the application for amendment dated March 19, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 27th day of August, 1999.

James W. Clifford,

Chief, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–23157 Filed 9–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–423]

Northeast Nuclear Energy Company (NNECO), et al., Millstone Nuclear Power Station, Unit No. 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–49, issued to Northeast Nuclear Energy Company, et al. (the licensee), for operation of the Millstone Nuclear Power Station, Unit No. 3 (MP3) located in New London County, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The proposed action is in response to the licensee's application dated March 19, 1999, requesting an amendment to the operating license for MP3 to support the rerack of its spent fuel pool to maintain the capability to fully offload the core from the reactor as the unit approaches the end of its operating license. To achieve this goal, the licensee plans to install two types of additional higher density spent fuel racks into the spent fuel pool. Existing spent fuel racks will remain in the pool in their current configuration, but are reanalyzed to only accept fuel lower in reactivity than they are presently licensed to accept. The proposed additional racks will have a closer assembly to assembly spacing to increase fuel storage capacity. The number of fuel assemblies that can be stored in the spent fuel pool would be increased from 756 assemblies to 1,860 assemblies (an increase of 1,104).

The Need for the Proposed Action

An increase in spent fuel storage capacity is needed to maintain the capability for a full core off-load. Loss of full core off-load capability will occur as a result of refueling outage 6 (RFO 6), that started on May 1, 1999. The licensee plans to install an additional 15 high density storage racks (with the capacity to store 1,104 fuel assemblies) following RFO 6 (14 will be installed between RFO 6 and RFO 7, with the last one to be installed later if it is necessary), while keeping the existing racks in place. The additional capacity will ensure the capability for a full core off-load as the unit approaches the end of its operating license (November 25, 2025).

Environmental Impacts of the Proposed Action

Radioactive Waste Treatment

MP3 uses waste treatment systems designed to collect and process gaseous, liquid, and solid waste that might contain radioactive material. These radioactive waste treatment systems were evaluated in the Final Environmental Statement (FES) dated December 1984. The proposed spent fuel pool expansion will not involve any change in the radioactive waste treatment systems described in the FES.

Gaseous Radioactive Wastes

Gaseous releases from the fuel storage area are combined with other plant exhausts. Normally, the contribution from the fuel storage area is negligible compared to the other releases and no significant increases are expected as a result of the expanded storage capacity.

Solid Radioactive Wastes

No significant increase in the volume of solid radioactive waste is expected from operating with the expanded storage capacity. The necessity for pool filtration resin replacement is determined primarily by the requirements for water clarity, and the resin is normally changed about once a year. During reracking operations, a small amount of additional resins may be generated by the pool cleanup system on a one-time basis.

Personnel Doses

During normal operations, personnel working in the fuel storage area are exposed to radiation from the spent fuel pool. Radiological conditions are dominated by the most recent batch of discharged spent fuel. The radioactive inventory of the older fuel is insignificant compared to that from the recent offload. Analysis shows that the rerack will not significantly change radiological conditions. Therefore, the rack expansion project falls within the existing design basis of MP3's Spent Fuel Pool.

All of the operations involved in reracking will utilize detailed procedures prepared with full consideration of ALARA [as low as is reasonably achievable] principles. Similar operations have been performed in a number of facilities in the past, and there is every reason to believe that reracking can be safely and efficiently accomplished at MP3, with low radiation exposure to personnel. Total dose for the reracking operation is estimated to be between 2 and 5 person-rem. While individual task efforts and doses may differ from those estimated, the total is believed to be a reasonable estimate for planning purposes. Divers will be used where necessary, and the estimated person-rem burden includes an estimate for their possible dose. The existing radiation protection program at MP3 is adequate for the reracking operations. Where there is a potential for significant airborne activity, continuous air monitors will be in operation. Personnel will wear protective clothing as required and, if necessary, respiratory protective equipment. Activities will be governed by a Radiation Work Permit, and personnel monitoring equipment will be issued to each individual. As a minimum, this will include thermoluminescent dosimeters (TLDs) and self-reading dosimeters. Additional personnel monitoring equipment (i.e., extremity TLDs or multiple TLDs) may be utilized as required. Work, personnel traffic, and the movement of equipment will be monitored and controlled to minimize contamination and to assure that dose is maintained ALARA.

On the basis of its review of the licensee's proposal, the NRC staff concludes that the MP3 spent fuel pool reracking operation can be performed in a manner that will ensure that doses to workers will be maintained ALARA. The estimated dose of 2 to 5 person-rem to perform the proposed spent fuel pool reracking operation is a small fraction of the annual collective dose accrued at MP3.

Accident Considerations

The licensee has evaluated the consequences of an accidental drop of a fuel assembly in the spent fuel pool and the consequences of an accidental drop of a fuel pool gate onto racks. The results show that such accidents will not distort the racks sufficiently to impair their functionality. The analysis indicates no radiological consequences from these postulated accidents. The consequences of a design basis seismic event have been evaluated and found acceptable. The proposed additional racks and existing racks have been analyzed in their new configuration and found safe and impact-free during seismic motion, save for the baseplate-to-baseplate impacts of the proposed additional racks that are shown to cause no damage to the racks' cells or Boral (used for criticality control). The structural capability of the pool walls and basemat will not be exceeded under the loads. Thus, the consequences of a seismic event are not significantly increased. The criticality consequences of a misloading/drop of a fuel assembly during fuel movement have been evaluated. The minimum subcriticality margin, k_{eff} less than or equal to 0.95, will continue to be maintained because of the proposed pool water soluble boron related requirements. The consequences of an accidental drop of a rack module into the pool during placement have been evaluated. The analysis confirmed that very limited damage to the liner could occur. Expected damage from this accident is repairable. Any small seepage occurring is well within makeup capability, and is mitigated by emergency operating procedures. The consequences of a spent fuel cask drop into the pool have not been considered in this submittal since the licensee is not currently licensed to move a fuel cask into the MP3 cask pit area.

Radiological concerns due to fuel damage are not an issue, since the fuel handling design basis accident considers the worst case condition of a falling assembly (a fuel assembly falling onto another fuel assembly). This design basis accident remains unchanged. Fuel assembly damage subsequent to a fuel assembly drop is primarily influenced by the weight and design of the fuel assembly, the drop height (determines the kinetic energy upon impact), and the orientation of the falling assembly. Since none of these parameters are changed under the proposed modification, the results of the previously analyzed and NRC-accepted design basis accident bound the radiological consequences of accidents analyzed for the spent fuel pool rerack.

In summary, the proposed action will not increase the probability or consequences of accidents, no changes are being made to radioactive waste treatment systems or in the types of any radioactive effluents that may be released offsite, and the proposed action will not result in a significant increase in occupational or offsite radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. The proposed action does not affect nonradiological plant effluents and has no other nonradiological environmental impacts. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with this action.

Alternatives to the Proposed Action

Shipping Fuel to a Permanent Federal Fuel Storage/Disposal Facility

Shipment of spent fuel to a high-level radioactive storage facility is an alternative to increasing the onsite spent fuel storage capacity. However, the U.S. Department of Energy's (DOE's) high-level radioactive waste repository is not expected to begin receiving spent fuel until approximately 2010, at the earliest. In October 1996, the Administration did commit DOE to begin storing waste at a centralized location by January 31, 1998. However, no location has been identified and an interim federal storage

facility has yet to be identified in advance of a decision on a permanent repository. Therefore, shipping spent fuel to the DOE repository is not considered an alternative to increased onsite spent fuel storage capacity at this time.

Shipping Fuel to a Reprocessing Facility

Reprocessing of spent fuel from the MP3 is not a viable alternative since there are no operating commercial reprocessing facilities in the United States. Therefore, spent fuel would have to be shipped to an overseas facility for reprocessing. However, this approach has never been used and it would require approval by the Department of State as well as other entities. Additionally, the cost of spent fuel reprocessing is not offset by the salvage value of the residual uranium; reprocessing represents an added cost.

Shipping Fuel to Another Utility, Site, or the Millstone Units 1 or 2 Spent Fuel Pool for Storage

The shipment of fuel to another utility or transferring MP3 spent fuel to the Millstone Units 1 or 2 spent fuel pool for storage could provide short-term relief from the storage problem at MP3. The Nuclear Waste Policy Act of 1982 and 10 CFR part 53, however, clearly place the responsibility for the interim storage of spent fuel with each owner or operator of a nuclear plant. The Millstone Units 1 and 2 spent fuel pools have been designed with the capacity to accommodate each of those units and, therefore, transferring spent fuel from MP3 to either of these pools would create fuel storage capacity problems with those units. The shipment of fuel to another site or transferring it to Millstone Units 1 or 2 is not an acceptable alternative because of increased fuel handling risks and additional occupational radiation exposure, as well as the fact that no additional storage capacity would be created.

Alternative Creation of Additional Storage Capacity

Alternative technologies that would create additional storage capacity include rod consolidation, dry cask storage, modular vault dry storage, and constructing a new pool. Rod consolidation involves disassembling the spent fuel assemblies and storing the fuel rods from two or more assemblies in a stainless steel canister that can be stored in the spent fuel racks. Industry experience with rod consolidation is currently limited, primarily due to concerns for potential gap activity release due to rod breakage, the potential for increased fuel cladding corrosion due to some of the protective oxide layer being scraped off, and because the prolonged consolidation activity could interfere with ongoing plant operations. Dry cask storage is a method of transferring spent fuel, after storage in the pool for several years, to high capacity casks with passive heat dissipation features. After loading, the casks are stored outdoors on a seismically qualified concrete pad. Concerns for dry cask storage include the potential for fuel or cask handling accidents, potential fuel clad rupture due to high temperatures, the need for special security provisions, and high costs. Vault storage consists of storing spent fuel in shielded stainless steel cylinders in a horizontal configuration in a reinforced concrete vault. The concrete vault provides missile and earthquake protection and radiation shielding. Due to large space requirements, a vault secured area for MP3 would likely have to be located outside the secured perimeter of the plant site. Concerns for vault dry storage include security, land consumption, eventual decommissioning of the new vault, the potential for fuel or clad rupture due to high temperatures, and high cost. The alternative of constructing and licensing a new fuel pool is not practical for MP3 because such an effort would require many years (i.e., 10 years) to complete and would be the most expensive alternative.

The alternative technologies that could create additional storage capacity involve additional fuel handling with attendant opportunity for a fuel handling accident, involve higher cumulative dose to workers effecting the fuel transfers, require additional security measures, are significantly more expensive, and would not result in a significant improvement in environmental impacts compared to the proposed reracking modifications.

Reduction of Spent Fuel Generation

Generally, improved usage of the fuel and/or operation at a reduced power level would be an alternative that would decrease the amount of fuel being stored in the pool and thus increase the amount of time before full core off-load capacity is lost. With extended burnup of fuel assemblies, the fuel cycle would be extended and fewer offloads would be necessary. This is not an alternative for resolving the loss of full-core offload capability that occurred as a result of MP3 refueling outage that began on May 1, 1999, because the spent fuel transferred to the pool for storage during this outage eliminated the licensee's ability to conduct a full core offload. Operating the plant at a reduced power level would not make effective use of available resources, and would cause unnecessary economic hardship on the licensee and its customers. Therefore, reducing the amount of spent fuel generated by increasing burnup further or reducing power is not considered a practical alternative.

The No-Action Alternative

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the exemption would result in no change in current environmental impacts. The environmental impacts of the proposed exemption and this alternative are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the "Final Environmental Statement Related to the Operation of Millstone Nuclear Power Station, Unit No. 3," dated December 1984 (NUREG–1064).

Agencies and Persons Contacted

In accordance with its stated policy, on June 21, 1999, the staff consulted with the Connecticut State official, Mr. Gary McCahill of the Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated March 19, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 27th day of August, 1999.

James W. Clifford,

Chief, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–23158 Filed 9–3–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Budget Analysis Branch; Sequestration Update Report

AGENCY: Office of Management and Budget—Budget Analysis Branch.

ACTION: Notice of Transmittal of Sequestration Update Report to the President and Congress.

SUMMARY: Pursuant to Section 254(b) of the Balanced Budget and Emergency Control Act of 1985, as amended, the Office of Management and Budget hereby reports that it has submitted its Sequestration Update Report to the President, the Speaker of the House of Representatives, and the President of the Senate.

FOR FURTHER INFORMATION CONTACT: Jason Orlando, Budget Analysis Branch—202/395–7436.

Dated: August 27, 1999.

Stephen A. Weigler,

Associate Director for Administration.

[FR Doc. 99–22857 Filed 9–3–99; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request;

[Extension Rule 15c2–7; SEC File No. 270–420; OMB Control No. 3235–0479]

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 15c2–7 Identification of Quotations

Rule 15c2–7 enumerates the requirements with which all brokers and dealers must comply when submitting a quotation for a security (other than a municipal security) to an inter-dealer quotation system. The purpose of Rule 15c2–7 is to ensure that an inter-dealer quotation system clearly reveals where two or more quotations in different names for a particular security represent a single quotation or where one broker-dealer appears as a correspondent of another. This is accomplished by requiring broker-dealers and inter-dealers and inter-dealer quotation systems to disclose with each published quotation the information required pursuant to the rule. The rule permits users of an inter-dealer quotation system to determine the identity of dealers making an inter-dealer market for a security—a fact which may be extremely pertinent in evaluating its marketability.

It is estimated that there are 8,500 brokers and dealers. Industry personnel estimate that approximately 900 notices are filed pursuant to Rule 15c3–7 annually. Based on industry estimates that respondents complying with Rule 15c2–7 spend 30 seconds to add notice of an arrangement and 1 minute to delete notice of an arrangement, and assuming that one-half of the notices given are to add an arrangement and the other half are to delete an arrangement, the staff estimates that, on an annual basis, respondents spend a total of 11.25 hours to comply with Rule 15c2–7 (900×45 seconds=40,500 seconds/60=675 minutes/60=11.23 hours). The Commission staff estimates that the average labor cost associated with this activity is $35 per hour. Therefore, the total labor cost of compliance for all brokers-dealer respondents is approximately $394 (11.25 multiplied by $35).

Written 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 estimates 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 or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: August 25, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23113 Filed 9–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23983; File No. 812–11610]

Allmerica Financial Life Insurance and Annuity Company, et al.

August 30, 1999.

AGENCY: Securities and Exchange Commission (the "Commission" or "SEC").

ACTION: Notice of Application for an order under Section 6(c) of the Investment Company Act of 1940 (the "1940 Act") granting exemptions from the provisions of Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c–1 thereunder to permit the recapture of credits applied to contributions made under certain deferred variable annuity contracts.

Summary of Application: Applicants seek an order under Section 6(c) of the 1940 Act to the extent necessary to permit, under specified circumstances, the recapture of credits of up to 5% of contributions made under deferred variable annuity contracts and certificates (the "Contracts"), that Allmerica will issue through the Separate accounts, as well as other contracts that Allmerica may issue in the future through the Separate Accounts or any other future Separate Account of Allmerica ("Other Separate Account") to support variable annuity contracts and certificates that are substantially similar in all material respects to the Contracts (the "Future Contracts"). Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. ("NASD") member broker-dealer controlling or controlled by, or under common control with, Allmerica, whether existing or created in the future, that serves as a distributor or principal underwriter for the Contracts or Future Contracts offered through the Separate Accounts or any Other Separate Account ("Allmerica Broker-Dealer(s)").

Applicants: Almerica Financial Life Insurance and Annuity Company ("Allmerica"), Separate Account VA–K of Allmerica, Separate Account VA–P of Allmerica, Separate Account KG of

Allmerica, and Allmerica Select Separate Account of Allmerica (together with the other Applicant separate accounts, the "Separate Accounts"), and Allmerica Investment, Inc. (collectively, "Applicants").

Filing Date: The application was filed on May 14, 1999, and amended and restated on August 4, 1999, and on August 27, 1999.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 24, 1999, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Allmerica Financial Life Insurance and Annuity Company, 440 Lincoln Street, Worcester, Massachusetts 01653, Attn: Shelia B. St. Hilaire, Esq.

FOR FURTHER INFORMATION CONTACT: Kevin P. McEnery, Senior Counsel, or Susan M. Olson, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, D.C. 20549–0102 (tel. (202) 942/8090).

Applicants' Representations

1. Allmerica is a stock life insurance company organized under the laws of the State of Delaware. Allmerica is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 ("1934 Act") and is a member of the NASD. Separate Account VA–K, Allmerica Select Separate Account, Separate Account VA–P, and Separate Account KG were established by resolutions of the Board of Directors of Allmerica on November 1, 1990, March 5, 1992, October 27, 1994, and June 13, 1996, respectively. Allmerica serves as depositor of each of the Separate Accounts. Allmerica may in the future establish one or more Other Separate Accounts for which it will serve as depositor.

2. Each of the Separate Accounts is a segregated asset account of Allmerica. Each of the Separate Accounts is registered with the Commission as a unit investment trust under the 1940 Act. Separate Account VA–K filed Form N–8A Notification of Registration under the 1940 Act on April 1, 1991. Allmerica Select Separate Account filed a Form N–8A on April 15, 1992. Separate Account VA–P filed a Form N–8A on November 3, 1994. Separate Account KG filed a Form N–8A on August 9, 1996.

3. Units of interest in the Separate Accounts will be registered under the Securities Act of 1933 (the "1933 Act"). In that regard, Allmerica Select Separate Account filed a Form N–4 registration statement on May 11, 1999, under the 1933 Act relating to the Contracts. Separate Account VA–K, Separate Account VA–P, and Separate Account KG each filed a Form N–4 registration statement on June 22, 1999, June 18, 1999, and June 18, 1999, respectively. Allmerica may issue Future Contracts through the Separate Accounts and through Other Separate Accounts. The assets of the Separate Accounts are not chargeable with liabilities arising out of any other business of Allmerica. Any income, gains or losses, realized or unrealized, from assets allocated to the Separate Accounts are, in accordance with the respective Contracts, credited to or charged against the Separate Accounts, without regard to other income, gains or losses of Allmerica.

4. Allmerica Investments, Inc. ("Allmerica Investments") is a wholly-owned subsidiary of Allmerica and will be the principal underwriter of the Separate Accounts and distributor of the Contracts funded through Allmerica Select Separate Account ("Select Contracts"), Separate Account VA–K ("VA–K Contracts"), Separate Account VA–P ("VA–P Contracts"), and Separate Account KG ("KG Contracts") (collectively, the "Contracts"). Allmerica Investments is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 (the "1934 Act") and is a member of the NASD. The Contracts will be offered through registered representatives of Allmerica Investments, or through unaffiliated broker-dealers, which are registered under the 1934 Act and members of the NASD, that have selling agreements with Allmerica Investments. Allmerica Investments, or any successor entity, may act as principal underwriter for any Other Separate Account and distributor for any Future Contracts issued by Allmerica. A successor entity also may act as principal underwriter for the Separate Accounts.

5. The Select Contracts, VA–K Contracts, VA–P Contracts, and KG Contracts are substantially similar in all material respects. They differ principally in the mix of mutual funds underlying each of the Separate Accounts, in the distribution channels used in the offering of the Contracts, and in the amount of the Credit (currently 5% for the Select Contracts and 4% for the VA–K Contracts, KG Contracts, and VA–P Contracts). There are minor differences in some contract features. Contracts may be issued as individual retirement annuities ("IRAs," either "Traditional IRAs" or "Roth IRAs"), in connection with certain types of qualified or non-qualified plans, or as non-qualified annuities for after-tax contributions only. In some states, the Contracts may be issued on a group basis, rather than as an individual contract. Each of the group contracts consists of (i) a basic form of group annuity contract (the "Group Contract") issued to an employer or to a bank, trust company or other institution whose sole responsibility will be to serve as party to the Group contract, (ii) a basic form of certificate issued under and reflecting the terms of the Group Contract, and (iii) forms of certificate endorsements to be used for specific forms of benefits under the certificates.

6. Payments may be made to the Contract at any time prior to the Annuity Date, subject to certain minimums. Currently, the initial payment must be at least $1,000 ($2000 for KG Contracts and $600 for VA–K Contracts), with lower minimum payments under salary deduction or monthly automatic payment plans, and for certain employer-sponsored retirement plans. The minimum subsequent payment is $50 ($167 for KG Contracts).

7. The Contracts permit the owner to allocate contributions to a fixed interest account ("Fixed Account") of Allmerica's general account, to accumulate interest at a fixed, guaranteed rate. Contributions may also be allocated to certain guarantee period accounts ("Guarantee Period Accounts"). Each Guarantee Period Account will provide a guarantee of each contribution plus interest at a guaranteed interest rate. Allmerica's general account assets support the guarantee of principal and interests. An upward or downward adjustment, or "market value adjustment," will be made to the annuity account value in Guarantee Period Account upon a

withdrawal, surrender or transfer from the Guarantee Period Account prior to the expiration of its guarantee period. The Market Value Adjustment will never be applied against the owner's principal investment, and even after application of the Market Value Adjustment, earnings in a Guarantee Period Account will not be less than an effective rate of 3% annually.

8. Each Separate Account consists of Sub-Accounts, which invest in the portfolios of certain underlying investment companies ("Funds"), each of which is registered with the Commission as an open-end, management investment company. Other Funds may be made available to the Separate Accounts or to the Other Separate Accounts of Allmerica. Separate Account VA–K of Allmerica will initially offer seventeen Sub-Accounts under the VA–K Contracts, each of which invests in a corresponding investment portfolio of Delaware Group Fremium Fund, Inc., managed by Delaware Management Company, Inc. and Delaware International Advisers Ltd., or of Allmerica Investment Trust ("AIT"), managed by Allmerica Financial Investment Management Services, Inc. ("AFIMS"). Allmerica Select Separate Account is currently comprised of fourteen Sub-Accounts, each of which invests in a corresponding investment series of AIT, Variable Insurance Products Fund, managed by Fidelity Management & Research Company, or T. Rowe Price International Series, Inc. ("T. Rowe Price"), managed by Rowe Price-Fleming International, Inc. Separate Account KG is currently comprised of twenty-six Sub-Accounts, each of which invests in a corresponding investment series of Kemper Variable Series ("KVS") or Scudder Variable Life Investment Fund ("Scudder VLIF"), both managed by Scudder Kemper Investments, Inc. Separate Account VA–P currently consists of thirteen Sub-Accounts, each of which invests in a corresponding investment portfolio of the Pioneer Variable Contracts Trust, managed by Pioneer Investment Management, Inc.

9. Allmerica in the future may determine to create additional Sub-Accounts of the Separate Accounts to invest in additional portfolios, other underlying portfolios or other investments in the future. In addition, Sub-Accounts may be combined or eliminated from time to time.

10. The Contracts provide for various withdrawal options, annuity payout options, as well as transfer privileges among Sub-Accounts, dollar cost averaging, death benefits, optional annuitization riders, and other features. The Contracts have charges consisting of: (i) a withdrawal charge as a percentage of contributions declining from 8.5% in years one through four to 0% after year nine, with a 15% "free withdrawal" amount in certain situations; (ii) asset-based charges at the annual rates of 1.25% for mortality and expense risks and 0.15% for administration expenses assessed against the net assets of each Sub-Account; and (iii) an annual contract fee of $35 for Contracts with an Accumulated Value of less than $75,000. The underlying Funds each impose investment management fees and charges for other expenses.

11. Each time Allmerica receives a contribution from an owner, it will allocate the owner's contract value a credit ("Credit") of up to 5% of the amount of the contribution (currently 5% for the Select Contracts and 4% for the VA–K Contracts, VA–P Contracts, and KG Contracts). Allmerica will allocate Credits among the investment options in the same proportion as the corresponding contributions are allocated by the owner. Allmerica will fund the Credits from its general account assets. Allmerica will recapture Credits from an owner only if the owner returns the Contract to Allmerica for a refund during the "free look" period, which varies by state.

12. Applicants seek exemption pursuant to Section 6(c) of the 1940 Act from Sections 2(a)(32), 22(c), and 27(i)(2)(A) of the 1940 Act and Rule 22c-1 thereunder to the extent deemed necessary to permit Allmerica to recapture Credits when an owner returns a Contract for a refund during the "free look" period, in which case Allmerica will recover the amount of any Credit applicable to such contribution.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder, 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 1940 Act. Applicants request that the Commission, pursuant to Section 6(c) of the 1940 Act, grant the exemptions summarized above with respect to the Contracts and any Future Contracts funded by the Separate Accounts or Other Separate Accounts, that are issued by Allmerica and underwritten or distributed by Allmerica Investments or Allmerica Broker-Dealers. Applicants undertake that Future Contracts funded by the Separate Accounts or any Other Separate Account will be substantially similar in all material respects to the Contracts. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Applicants represent that it is not administratively feasible to track the Credit amount in any of the Separate Accounts after the Credit is applied. Accordingly, the asset-based charges applicable to the Separate Accounts will be assessed against the entire amounts held in the respective Separate Accounts, including the Credit amount, during the "free look" period. As a result, during such period, the aggregate asset-based charges assessed against an owner's annuity account value will be higher than those that would be charged if the owner's annuity account value did not include the Credit.

3. Subsection (i) of Section 27 provides that Section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for any registered separate account funding variable insurance contracts or a sponsoring insurance company of such account to sell a contract funded by the registered separate account unless, among other things, such contract is a redeemable security. Section 2(a)(32) defines "redeemable security" as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

4. Applicants submit that the recapture of the Credit if an owner returns the Contract during the free look period would not deprive an owner of his or her proportionate share of the issuer's current net assets. Applicants state that an owner's interest in the amount of the Credit allocated to his or her annuity account value upon receipt of an initial contribution is not vested until the applicable free-look period has expired without return of the Contract. Until or unless the amount of any Credit is vested, Applicants submit that America retains the right and interest in

the Credit amount, although not in the earnings attributable to that amount. Applicants argue that when Allmerica recaptures any Credit it is simply retrieving its own assets, and because an owner's interest in the Credit is not vested, the owner has not been deprived of a proportionate share of the applicable Separate Account's assets, *i.e.*, a share of the applicable Separate Account's assets proportionate to the owner's annuity account value (including the Credit).

5. In addition, Applicants state that it would be patently unfair to allow an owner exercising the free-look privilege to retain a Credit amount under a Contract that has been returned for a refund after a period of only a few days. Applicants state that if Allmerica could not recapture the Credit, individuals could purchase a Contract with no intention of retaining it, and simply return the Contract for a quick profit.

6. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put up to 105% of their contributions to work for them in the selected Sub-Accounts. In addition, the owner will retain any earnings attributable to the Credit, and the principal amount of the Credit will be retained under the conditions set forth in the application.

7. Applicants submit that the provisions for recapture of any Credit if an owner returns a Contract or any Future Contract during the free look period under the Contracts will not violate Sections 2(a)(32) and 27(i)(2)(A) of the 1940 Act. Nevertheless, to avoid any uncertainties, Applicants request an exemption from those Sections, to the extent deemed necessary, to permit the recapture of any Credit if an owner returns a Contract or any Future Contract during the free look period, without the loss of the relief from Section 27 provided by Section 27(i).

8. Section 22(c) of the 1940 Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, the redeemable securities of any registered investment company, whether or not members of any securities association, to the same extent, covering the same subject matter, and for the accomplishment of the same ends as are prescribed in Section 22(a) in respect of the rules which may be made by a registered securities association governing its members. Rule 22c-1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security, which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

9. Arguably, Allmerica's recapture of the Credit may be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current net asset value of the Separate Accounts. Applicants contend, however, that recapture of the Credit is not violative of Section 22(c) and Rule 22c–1. Applicants argue that the recapture does not involve either of the evils that Rule 22c–1 was intended to eliminate or reduce, namely: (i) the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption or repurchase at a price above it, and (ii) other unfair results including speculative trading practices. *See,* Adoption of Rule 22c–1 under the 1940 Act, Investment Company Release No. 519 (Oct. 16, 1968). To effect a recapture of a Credit, Allmerica will redeem interests in an owner's Contract at a price determined on the basis of current net asset value of the respective Sub-Accounts. The amount recaptured will equal the amount of the Credit that Allmerica paid out of its general account assets. Although owners will be entitled to retain any investment gain attributable to the Credit, the amount of such gain will be determined on the basis of the current net asset value of the respective Sub-Accounts. Thus, no dilution will occur upon the recapture of the Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely, speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit. However, to avoid any uncertainty as to full compliance with the 1940 Act, Applicants request an exemption from the provisions of Section 22(c) and Rule 22c–1 to the extent deemed necessary to permit them to recapture the Credit, as described herein, under the Contracts and Future Contacts.

Conclusion

Applicants submit that their request for an order is appropriate in the public interest. Applicants state that such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Applicants argue that investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the 1940 Act that has not already been addressed in their application described herein. Applicants submit that having them file additional applications would impair their ability effectively to take advantage of business opportunities as they arise. Further, Applicants state that if they were required repeatedly to seek exemptive relief with respect to the same issues addressed in the application described herein, investors would not receive any benefit or additional protection thereby.

Applicants submit, based on the grounds summarized above, that their exemptive request meets the standards set out in Section 6(c) of the 1940 Act, namely, that the exemptions requested are 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 1940 Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23114 Filed 9–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 6, 1999.

A closed meeting will be held on Thursday, September 9, 1999 at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters will be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10)

and 17 CFR 200.402(a)(4), (8), (9)(i), and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Unger, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Thursday, September 9, 1999, at 10:00 a.m., will be:

Institution of injunctive actions.
A litigation matter.
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: September 1, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–23286 Filed 9–2–99; 11:48 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release 34–41805; File No. 600–23]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice and Order Extending Temporary Registration as a Clearing Agency

August 27, 1999.

Notice is hereby given that the securities and Exchange Commission ("Commission") pursuant to Section 19(a) of the Securities Exchange Act of 1934 ("Act")[1] is extending the Government Securities Clearing Corporation's ("GSCC") temporary registration as a clearing agency through January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or Jeffrey S. Mooney, Special Counsel, at 202/942–4187, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–1001.

Background

On May 24, 1988, pursuant to Sections 17A(b) and 19(a) of the Act[2] and Rule 17Ab2–1 promulgated thereunder,[3] the Commission granted GSCC registration as a clearing agency on a temporary basis for a period of three years.[4] The Commission subsequently has extended GSCC's registration through August 31, 1999.[5]

In the most recent extension of GSCC's temporary registration, the Commission stated that it planned in the near future to seek comment on granting GSCC permanent registration as a clearing agency. The extension of GSCC's temporary registration will enable the Commission to do so within the next few months.

It is therefore ordered that GSCC's temporary registration as a clearing agency (File No. 600–23) be and hereby is extended through January 14, 2000, subject to the terms set forth above.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23105 Filed 9–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41791; File No SR–CBOE–99–43]

Self-Regulatory Organizations; Notice of Proposed Rule Change by the Chicago Board Options Exchange, Inc. To Amend Its Commission Pertaining to Corporate Governance

August 25, 1999

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 6, 1999, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 CBOE proposes to amend certain provisions of the Constitution pertaining to the governance of the Exchange.

The text of the proposed rule change follows. Additions are in *italics;* deletions are bracketed.

Article I; Definitions

Section 1.1 When used in this Constitution, *except as expressly otherwise provided or* unless the context otherwise requires:

(a) The term "Exchange" means the Chicago Board Options Exchange, Incorporated or its exchange market.

(b) The term "member" means an individual member or a member organization of the Exchange (or a registered nominee of such a member organization) that is a regular member in good standing described in section 2.1(b) of Article II of the Constitution[, or that is a special member in good standing described in section 2.1(d) of Article II of the Constitution to the extent that such special members are entitled to the rights and are subject to the obligations of members under the Certificate of Incorporation, the Constitution or the Rules].

(c) The term "member organization" means a partnership or corporation which owns a membership, or a partnership or corporation for which a membership is registered in accordance with Section 2.4 of Article II of the Constitution.

(d) The term "Board" means the Board of Directors of the Exchange.

(c) The term "Rules" means the rules of the Exchange as adopted or amended from time to time.

Article II; Membership

Section 2.1 Number of Memberships

(a) Membership in the Exchange shall be made available by the Exchange at such times, under such terms and in such number as shall be proposed by the Board and approved by the affirmative vote of the majority of the members present in person or represented by proxy at a regular or special meeting of the membership. Such an affirmative vote by the members shall be required for the issuance of all new memberships, whether regular or special, whether having expanded or limited rights, whether designated memberships or permits or as a classification using any other description, which grant the holders thereof the right to enter into securities transactions at the Exchange.

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[1] 15 U.S.C. 78s(a).

[2] 15 U.S.C. 78q-1(b) and 78s(a).

[3] 17 CFR 240.17Ab2–1.

[4] Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19639.

[5] Securities Exchange Act Release Nos. 29067 (April 11, 1991), 56 FR 15652; 32385 (June 3, 1993), 58 FR 32405; 35787 (May 31, 1995), 60 FR 30324; 36508 (November 27, 1995), 60 FR 61719; 37983 (November 25, 1996), 61 FR 64183; 38698 (May 30, 1997), 62 FR 30911; 39696 (February 24, 1998), 63 FR 10253; and 41104 (February 24, 1999), 64 FR 10510.

[6] 17 CFR 200.30–3(a)(16).

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

(b) The regular membership of the Exchange shall consist of persons who acquire *regular* memberships made available by the Exchange in accordance with the Rules, and shall also consist of those members of the Board of Trade of the City of Chicago who, pursuant to paragraph (b) of Article FIFTH of the Certificate of Incorporation, elect to apply for membership and are approved for membership in accordance with the rules. Except as otherwise expressly provided in the Certificate of Incorporation, the Constitution or the rules, every regular member of the Exchange shall be entitled to the same rights and privileges, and shall be subject to the same obligations, as every other regular member.

(c) *Reserved for special memberships.* [All prior offers by the Exchange of memberships unsold as of August 29, 1977, are withdrawn and all available memberships unsold by the Exchange as of said date are terminated.]

[(d) The special membership of the Exchange shall consist of persons who were options members in good standing of the Midwest Stock Exchange, Incorporated ("Midwest") as of May 30, 1980 and, subject to the conditions of approval for membership as stated in the Constitution and Rules, transferees of such persons. Special members in good standing, or lessees of such special members under these arrangements that have been in effect continuously from July 18, 1978, shall be entitled to act as Market-Makers or Floor Brokers in accordance with Chapters VI and VIII of the Rules in and only in those classes of MSE Options which continue to be open for trading on the Exchange; provided that all special memberships shall expire and all rights of special members shall cease, ten years after the date stated in the first sentence of this paragraph (d), and provided further, that a special membership may be canceled by the Exchange at an earlier date under the circumstances, and with the effect, as provided in the Rules. Special members shall as a condition of their membership be subject to all of the obligations of regular members under the Constitution and the Rules, except as may be otherwise expressly provided that Constitution or the Rules. For purposes of this paragraph (d), the term "MSE Options" shall mean (i) those classes of call options which were open for trading on Midwest at the close of business on the last business day prior to the date defined in the first sentence of this paragraph (d) other than classes or call options which, on the day Midwest commenced trading in such classes, also were open for trading on the Exchange, and (ii) all classes of put options on the securities underlying the classes of call options covered by (i).]

(d)[(e)](1) Seventy-five "Options Trading Permits" ("Permits") shall be issued or made available for leasing in accordance with the Rules. All Permits shall expire, and all rights of their holders shall cease, on the seventh anniversary of the date determined pursuant to agreement between the Exchange and the New York Stock Exchange ("NYSE") on which trading begins on the floor of the Exchange in options that were listed on the NYSE.

(2) Permit holders shall have no right to petition or to vote at Exchange membership meetings or elections or to be counted as part of a quorum, shall have no interest in the assets or property of the Exchange and no right to share in any distribution by the Exchange, and shall have none of the other rights or privileges accorded members under any provision of the Constitution and Rules other than those specified in the Rules.

Section 2.2 Eligibility for Membership; Good Standing

Membership shall be limited to individuals, partnerships[,] and corporations, subject to their meeting the conditions of approval as stated in the Constitution and Rules. Members must have as the principal purpose of their membership the conduct of a public securities business as defined in the Rules.

The good standing of a member may be suspended, terminated or otherwise withdrawn, as provided in the rules, if any of said conditions for approval cease to be maintained or the member violates any of its agreements with the Exchange or any of the provisions of the Constitution or the rules. Unless a member is in good standing, the member shall have no rights or privileges of membership except as otherwise provided by statute, the Certificate of Incorporation, the Constitution or the Rules, shall not hold himself or itself out for any purpose as a member, and shall not deal with the Exchange on any basis except as a non-member.

Section 2.3 Nominees of Member Organizations

No Change.

Section 2.4 Registration of Individual Memberships for Member Organizations

No Change.

Section 2.5 Acquisition and Transfer of Memberships

No Change.

Section 2.6 Voting and Other Rights and Powers

[(a)] Each regular member shall have the voting rights and power provided by law and by the Certificate of Incorporation *and the Constitution.*

[(b) Except as otherwise provided by law and by section 12.1, each special member shall be entitled at every meeting of members to one-sixth of one vote in person or by proxy, voting together with regular members and not as a separate class, and shall count as one sixth of a member in all other instances when reference is made in the Constitution to a majority or other proportion or number of members (including, without limiting the generality of the foregoing, reference to calling meetings or members, nominating by petition of members, determining a quorum of members or voting by members).]

[(c) Special members shall have the same eligibility as a regular members to serve as directors of the Exchange and to serve on any committee of the Exchange.]

[(d) Special members shall have no interest in or right to share in any distribution of the property and assets of the Exchange in the event of any liquidation or dissolution of the Exchange.]

Article III; Meetings of Members

Section 3.1 Place of Meetings

No Change.

Section 3.2 Annual Election Meeting

An annual election meeting of members shall be held on the [2nd Monday]*3rd Friday* in [December]*November* of each year unless such day is a legal holiday, in which case on the next succeeding business day which is not a legal holiday, at such time as may be designated by the Board prior to the giving of notice of the meeting, for the purpose of electing directors to fill expiring terms and any vacancies in unexpired terms and electing members of the Nominating Committee to fill expiring terms and any vacancies in unexpired terms.

Section 3.3 Annual Report Meeting

An annual report meeting of members shall be held within [90]*120* days following the end of the Exchange's fiscal year, at a time as determined by the Board, for the purpose of transacting such business as may properly be brought before the meeting.

Section 3.4 Special Meetings

Special meetings of members, for any purpose or purposes, unless otherwise prescribed by statute or by the Certificate of Incorporation, may be called by the Chairman of the Board, the Chairman of the Executive Committee[,] or the Board of Directors, and shall be called by the Secretary at the request in writing of 150 voting members, provided that such request shall state the purpose or purposes of the proposed meeting and the day and hour at which such meeting shall be held.

Section 3.5 Notice of Members' Meetings

No Change.

Section 3.6 Quorum and Adjournments

Except as otherwise provided by statute, the Certificate of Incorporation or the Constitution, a majority of the members entitled to vote, when present in person or represented by proxy, shall constitute a quorum at all meetings of members for the transaction of business, provided that in respect to uncontested elections, one-third of the members entitled to vote, when present in person or represented by proxy, shall constitute a quorum. If such quorum shall not be present or represented *by proxy* at any meeting of members, a majority of the members present in person or represented by proxy at [any such] *the* meeting shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting unless otherwise required by statute, until a quorum shall be present or represented. At *any* such adjourned meeting at which a quorum [shall be] *is* present [or represented], any business may be transacted which might have been transacted at the meeting as originally notified. Nothing in the Constitution shall [effect] *affect* the right to adjourn a meeting from time to time where a quorum is present.

Section 3.7 Voting by Members

With respect to any question brought before a meeting, when a quorum is present, a majority of *voting* members present in person or represented by proxy shall decide the question, unless the question is one upon which by express provision of statute, the Certificate of Incorporation or the Constitution, a different vote is required, in which case such express provision shall govern and control. Voting on any question brought before any meeting of members shall be, so far as applicable, in accordance with the procedure provided by Article V of the Constitution for the conduct of the annual election.

Article IV; Nominations

Section 4.1 Nominating Committee

(a) There shall be a Nominating Committee composed of [seven members, and except for the members of the initial] *four members who are primarily engaged in business on the floor of the Exchange in the capacity of a member (floor members) (except that, as provided in paragraph (b) of this section 4.1, the* Nominating Committee [each of the members shall be a member of the Exchange. The initial Nominating Committee, which shall select the nominees to be voted upon at the initial] *shall have six floor members until the 1999* annual election meeting, [shall be appointed by the Board. Thereafter, there shall be six elected] *and shall have five floor members until the 2000 annual election meeting); two members who are officers of member organizations that primarily conduct a non-member public customer business (firm members); two members each of whom directly or indirectly owns and controls (as defined in section 6.1(a)) one or more memberships in respect of which he acts solely as lessor (lessor members), at least one of whom is not actively engaged in business as a "broker-dealer" or as a "person associated with a broker-dealer" as those terms are defined in the Securities Exchange Act of 1934; and two representatives of the public (public members).*

(b) All of the members of the Nominating Committee [chosen] *shall be elected* by the [membership] *voting members* of the Exchange, [and one member]. *Members* of the Nominating Committee *elected prior to the 1999 annual election meeting shall continue to serve until the expiration of the terms for which they were elected. The Nominating Committee to serve in respect of the 1999 annual election meeting shall also include two firm members, two lessor members and two public members, all of whom shall be* appointed by the Chairman of the Executive Committee with the approval of the Board *of Directors.* [At] *In* the [first] *1999* annual election meeting, [the six elected members of the Nominating Committee] *one floor member shall be elected for a three year term, and two firm members, two lessor members and two public members* shall be elected, [two for a term expiring at the annual election meeting following the initial annual election meeting, two for a term] *one firm member, one lessor member and one public member for terms* expiring at the second annual election meeting following the [initial] *1999* annual election meeting, and [two] *one firm member, one lessor member and one public member* for [a term] *terms* expiring at the third annual election meeting following the [initial] *1999* annual election meeting. *In the 2000 annual election meeting, one floor member shall be elected for a three year term.* At each subsequent annual election meeting, [two] *members of the Nominating* Committee [members] shall be elected to succeed those whose terms expire, *each* to serve for a term expiring at the third succeeding annual election meeting[. One Committee member shall be appointed each year, for a term of one year, at the regular Board meeting immediately following the annual election meeting. A member] *and until their successors are duly elected and qualified. Elected members* of the Nominating Committee shall be ineligible for [election or appointment to the Committee] *reelection* for a period of three years after [his term expires] *their terms expire.*

Section 4.2 Nominating Committee Vacancies

Any vacancy occurring among the members of the Nominating Committee may be filled by a *qualified person appointed by* the Chairman of the Executive Committee with the approval of the Board *to hold office* until the next annual election meeting, at which time a *qualified* successor shall be elected to serve the unexpired term, if any, of his [elected] predecessor in office.

Section 4.3 Nominating Procedure

During October of each year the Nominating Committee shall hold at least three meetings, at least two of which shall be open to the membership, for the purpose of selecting not less than one nominee for each of the following offices to be voted [on] *upon* at the following annual election meeting:

(a) Directors to fill expiring terms and vacancies.

(b) Nominating Committee members to fill expiring terms and vacancies.

The Nominating Committee shall select nominees to fulfill the requirements of sections 6.1 and 4.1 of the Constitution with an obligation to have the various interests of the membership represented on the Board and the Nominating Committee, respectively. Notice of each of [these] *the* meetings *of the Nominating Committee* shall be posted on the bulletin board on the floor of the Exchange.

Section 4.4 Replacement Nominees

In the event any nominee named by the Nominating Committee withdraws or becomes ineligible, the Nominating Committee may select an additional *qualified* nominee to replace the withdrawn or ineligible nominee, and it shall select an additional *qualified* nominee if, as a result of the withdrawal or ineligibility, there is not at least one nominee for each of the offices to be elected.

Section 4.5 Nomination by Petition

Nominations *of candidates for election to the Board or the Nominating Committee* may be made by petition, signed by not less than 100 *voting* members of the Exchange and filed with the Secretary no later than 5:00 p.m. (Chicago time) on *the Monday preceding the 1st Friday in* November [15], or the first business day thereafter in the event *that Monday* [November 15] occurs on a holiday [or a weekend].

Section 4.6 Posting of Names of Nominees

No Change.

Section 4.7 Qualifications of Nominees

Candidates for election to the Board or the Nominating Committee, whether nominated by the Nominating Committee or by petition, shall be eligible for election in any of the categories for which they qualify both at the time of their nomination and at the time of their election. The sole judge of whether a candidate satisfies the applicable qualifications for election to the Board or the Nominating Committee in a designated category shall be the Nominating Committee in the case of candidates nominated by that Committee, and shall be the Executive Committee in the case of candidates nominated by petition, and the decision of the respective committee shall be final.

Article V: Conduct of Annual Election

Section 5.1 Election Committee

No. Change.

Section 5.2 Voting Procedure

Immediately following the expiration of the time within which nominations may be made by petition, the Secretary shall prepare a ballot listing all candidates nominated for offices to be voted upon at the annual election, the order of the listing to be determined by lot. A ballot, a form of proxy, an envelope marked "For Ballot Only" and a return envelope shall be mailed by the Secretary to each member *eligible to vote*, together with the notice of the annual election. Members may vote, either in person or by proxy, by marking the ballot which shall remain unsigned and sealing the same in the unmarked ballot envelope. Members desiring to vote by proxy shall mail the sealed ballot, accompanied by a signed proxy card, to the Secretary so that it is received by [him] *the Secretary* prior to the election. At the election, members voting in person shall deliver their sealed ballot envelopes to at least two members of the Election Committee, who shall keep a list of the members voting and shall place the sealed ballot envelopes in the ballot box. Following the completion of voting in person, the Secretary shall deliver to the Election Committee all of the proxies, each with its accompanying sealed ballot envelope. At least two members of the Election Committee shall check the names of the members voting by proxy on the voting list, file the proxies, and place the sealed ballot envelopes in the ballot box.

Section 5.3 Counting of Ballots

When all of the ballots properly submitted at the election have been placed in the ballot box, *members of* the Election Committee shall open the ballot box and the sealed ballot [envelope]*envelopes*, and shall count the ballots. A plurality of *the* votes shall elect the directors; provided, however, that where a plurality of votes cast [do] *would* not elect [at least 2 directors who shall be off-floor directors, as defined in section 6.1, of which at least 1 shall be a nonresident and at least 2 directors who shall be floor directors, as defined] *the number of directors from each of the categories specified* in section 6.1, then the [appropriate] *specified* number of candidates from each of [the above] *such* categories who receive the highest votes among all those candidates in each such category shall be elected in lieu of those candidates [with] *who receive what would otherwise be* the lowest winning pluralities. A plurality of *the* votes shall elect *the* members of the Nominating Committee; provided, however, that in the same manner as described above for the election of directors, in any case where a plurality of votes cast would not elect the number of members of the Nominating Committee from each of the categories specified in section 4.1, then the specified number of candidates in each such category who receive the highest votes among all candidates in that category shall be elected. The Election Committee shall cause election results to be posted on the bulletin board on the floor of the Exchange.

Article VI: Board of Directors

Section 6.1 Number, Election and Term of Office of Directors

(a) The Board of Directors shall *consist* [be composed] of *22* [21] directors, [15 of whom shall be members of executive officers of member organizations of the Exchange and shall be] by the membership of the Exchange, [4 of whom shall not be members of the Exchange and shall be appointed by the Chairman of the Board and approved by the Board to represent the public (public directors),] *as described below* and the Chairman of the Board [and the President], who by virtue of *his* [their] office[s] shall be *a* member[s] of the Board. *Commencing with the 1999 annual election meeting, the Directors elected by the membership shall be divided into three classes, composed as follows:*

Class I shall consist of one member who directly or indirectly owns and controls a membership and is primarily engaged in business on the floor of the Exchange in the capacity of a member (floor director), one member who functions as a member in any recognized capacity either individually or on behalf of a member organization (at-large director), one member who directly or indirectly owns and controls a membership with respect to which he acts solely as lessor and who is not actively engaged in business as a "broker-dealer" or as a "person associated with a broker-dealer" as those terms are defined in the Securities Exchange Act of 1934, (lessor director), two members who are executive officers of member organizations that primarily conduct a non-member public customer business and are not individually engaged in business on the Exchange floor (off-floor directors, and two non-members who are not broker-dealers or persons affiliated with broker-dealers (public directors).

Class II shall consist of one floor director, one at-large director, two off-floor directors and three public directors.

Class III shall consist of two floor directors, one at-large director, two off-floor directors and three public directors.

The ordinary place of business of at least one of the two off-floor directors in each Class shall be a location more than 80 miles from the Exchange's trading floor. For purposes of this section 6.1, a member shall be considered to directly own and control a membership only if the member individually and directly owns of record and beneficially all right, title and interest in the membership, and a member shall be considered to

indirectly own and control a membership only if the member (A) has the sole and exclusive right to vote the membership and control its sale, and (B) is in possession of and subject to all of the risks and rewards of a direct owner of at least a fifty percent (50%) interest in a membership, either through ownership of an equity interest in a member organization or of a beneficial interest in a trust, which in either case is the owner of one or more memberships as permitted under the rules.

(b) The initial terms of Class I, Class II and Class III directors shall terminate following the annual election meetings to be held in 1999, 2000 and 2001, respectively, and members of the Board prior to the annual election meeting to be held in 1999 shall be assigned to one of these three Classes on the basis of the year in which their current term of office expires.[3] At the 1999 annual election meeting, all of the Class I directors shall be elected for three year terms, and directors shall be elected to fill vacancies in Classes II and III. At subsequent annual election meetings, the directors of each class shall be elected for three year terms to succeed those whose terms are then about to expire, and they [At least 6 of 15 elected Directors shall be members who individually either own or directly control their memberships on the Exchange and are primarily engaged in business on the Exchange floor (floor directors) and at least 6 of the 15 elected Directors shall be executive officers of member organizations which primarily conduct a non-member public customer business and shall individually not be primarily engaged in business activities on the Exchange floor (off-floor directors). Of the off-floor directors, at least 3 shall have as their ordinary place of business a location more than 80 miles from the Exchange's trading floor. The remaining 3 of the 15 elected Directors shall be members who function in any recognized capacity either individually or on behalf of a member organization. At each annual election meeting, 5 Directors shall be elected, at least 2 shall be off-floor directors, of which at least 1 shall be a non-resident; at leat 2 shall be floor directors. All of such elected Directors shall succeed those elected Directors whose terms expire and shall serve for a term of 3 years. After the annual election meeting next occurring subsequent to the effective date of the Constitutional amendment increasing the number of public directors, 2 public directors shall be appointed, 1 for a term of 2 years and 1 for a term of 1 year; and after each subsequent annual election meeting, 2 public directors shall be appointed, each to serve for a two-year term, succeeding the public directors whose terms then require. Each Director] shall hold office for the terms *for* [to] which [he is] elected [or appointed] *and until their successors shall have been duly elected and qualified,* or until *their* [his] earlier death, resignation or removal[;]. *Terms of office of directors* shall expire at the first regular meeting of the Board of Directors *held on or after Janaury 1* following *the* annual election meeting[s] *at which their successors are elected.*

Section 6.2 Powers of the Board

No Change.

Section 6.3 Resignation, Disqualification and Removal of Directors

(a) A Director may resign at any time by giving written notice of his resignation to the Chairman of the Boad or the Secretary, and such resignation, unless specifically contingent upon its acceptance, will be effective as of its date or of the date specified therein.

(b) [From and after the initial annual election meeting, any elected Director who] *In the event (i) any Director other than a public director* ceases to be a member or executive officer of a member organization *or (ii) the number of Directors in any designated category within a Class falls below the number for that category and Class as specified in section 6.1 because of the failure of a Director to maintain the qualifications for the designated category, of which failure the Board of Directors shall be the sole judge, the Director* shall thereupon cease to be a Director [and], his office shall become vacant *and the vacancy may be filled at the next scheduled meeting of the Baord of Directors with a person who qualifies for the category in which the vacancy exists,* provided that [an elected Director] *a Director other than a public director* whose membership is suspended may remain a Director *during the period of suspension* unless he is removed pursuant to paragraph (c) of this Section.

(c) In the event of the refusal, failure, neglect or inability of any Director to discharge his duties, or for any cause affecting the best interests of the Exchange the sufficiency of which the Board of Directors shall be the sole judge, the Board shall have the power, by the affirmative vote of at least two-thirds of the Directors then in office, to remove such Director and declare his office vacant.

[(d) In the event the number of Directors who qualify as floor directors falls below six because of the failure of a floor director to maintain the qualifications for election to that office specified in section 6.1 of the Constitution, of which the Board of Directors shall be the sole judge, the Director shall thereupon cease to be a Director, his office shall become vacant and the vacancy shall be filled at the next scheduled meeting of the Board of Directors with a member who qualifies as a floor director. Firm and public directors also shall maintain the qualifications for election to those offices, with the Board of Directors again being the sole judge as to whether qualifications have been maintained.]

Section 6.4 Filling of Vacancies

Any vacancy in the Board of Directors resulting from a Director ceasing to hold office [Prior to the initial annual election meeting any vacancy occurring in the Board, and from and after the initial annual election meeting any vacancy of an elected Director] prior to the expiration of his term [of office,] may be filled *by a person who is qualified to serve in the category of the Board in which the vacancy exists and who is appointed* by the affirmative vote of a majority of the Directors then in office, and any Director so chosen shall serve until the next annual election meeting and until his successor is duly elected and qualified. The remaining portion of the unexpired term of [an elected] *a* Director, if any, shall be served by a Director elected at such next annual election meeting. [A vacancy of an appointed Director prior to the expiration of his term of office may be filled by the Chairman of the Board with the approval of the Board, and any Director so chosen shall serve the unexpired term of his predecessor in office.]

Section 6.5 Quorum

No Change.

Section 6.6 Regular Meetings

No Change.

Section 6.7 Special Meetings

Special meetings of the Board may be called by the Chairman of the Board or the Chairman of the Executive Committee and shall be called by the Secretary upon the written request of any 4 Directors. The Secretary shall give at least one hour's notice of such meeting to each Director, either by

[3] *Any member serving os o floor director prior to the 1999 annuol electian meeting sholl be permitted to serve aut the remainder af his current term of office withaut regard to whether his business an the floor is canducted "in the capacity of o member."*

announcement on the Exchange floor during trading hours on business days, or personally, or by mail, telegram or cablegram. Every such notice shall state the time and place of the meeting[,] which shall be fixed by the person calling the meeting, but need not state the purpose thereof except as otherwise required by statute, the Constitutiion or the Rules.

Section 6.8 Participation in Meeting

No Change.

Section 6.9 Informal Action

No Change.

Section 6.10 Interested Directors

No Change.

Section 6.11 Annual Report to Members

No Change.

Article VII; Committees

Section 7.1 Designation of Committees

The Committees of the Exchange shall consist of an Executive Committee and such other standing and special committees as may be provided in the Constitution or Rules or as may be from time to time appointed by the Chairman of the Executive Committee with the approval of the Board. [The] *Except as may be otherwise provided in the Constitution of the Rules, the* Chairman of the Executive Committee with the approval of the Board [may] *shall* appoint the members of all committees[, and may designate a Chairman and a Vice-Chairman thereof other than the Chairman of the Executive Committee, who shall be [elected] *selected* as provided in section 8.1(a) of the Constitution.

Section 7.2 The Executive Committee

The Executive Committee shall consist of the Chairman of the Board, the Chairman of the Executive Committee, [the President] and at least 4 other persons, each of whom must be a Director. Each member of this Committee shall be a voting member. The members of the Executive Committee shall serve for a term of one year expiring at the first regular meeting of Directors following the annual election meeting in each year. The Executive Committee shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange, except it shall not have the power or authority of the Board in reference to amending the Certificate of Incorporation, adopting an agreement of merger or consolidation, recommending to the members of sale, lease or exchange of all or substantially all of the Exchange's property and assets, recommending to the members the dissolution of the Exchange or a revocation of a dissolution, or amending the Constitution or Rules of the Exchange.

Section 7.3 Other

No Change.

Section 7.4 Conduct of Proceedings

No change.

Section 8.1 Designation; Number; Election

(a) The officers of the Exchange shall be a Chairman of the Board, a Chairman of the Executive Committee, a President, one or more [Vice Presidents]*Vice-Presidents* (the number thereof to be determined by the Board of Directors), a Secretary, a Treasurer, and such other officers as the Board may determine. The Chairman of the Board shall be elected by the affirmative vote of at least two-thirds of the Directors then in office exclusive of the Chairman [and the President[, who shall not vote. Such affirmative vote may also prescribe his duties not inconsistent with the Constitution or Rules and may prescribe a tenure of office.

The Chairman of the Executive Committee shall be a director who owns or directly controls his own membership and *is primarily engaged in business on the floor of the Exchange in the capacity of a member. He* shall be elected by a plurality of members voting at a meeting of the membership held *on the 3rd Friday in December of* each year [on the third] (or if that day is not a business day [in January], *on the next succeeding business day) and shall serve unil his successor is duly chosen and qualified or until his earlier death of his registration or removal. Once a director has held the office of the Chairman of the Executive Committee for six months or more of a one-year term and for the next two succeeding one-year terms, the director shall thereafter be ineligible to again hold the office until a period of not less than six months has elapsed during which the director has not held that office. Candidates for the office of Chairman of the Executive Committee* must notify the Secretary of the Exchange in writing no later than the [third Monday of December.]*close of business on November 23rd (or if that day is not a business day, on the next succeeding business day).* In the event there is only one candidate, no election need be held, and the Board of Directors shall declare the office filled by the sole announced candidate.

The remaining officers of the Exchange shall be appointed by the Chairman of the Board, subject to the approval of the Board, at the first regular meeting of the *Board of* Directors *held on or* after *January 1 following* each annual election meeting, [and shall] *each to serve until [his] a* successor [is]*has been* duly chosen and qualified or until [his] *the officer's earlier death or [his] resignation or removal.*

(b) No Change.

Section 8.2 Chairman of the Board of Directors.

(b) No Change.

Section 8.3 Chairman of the Executive Committee/*Vice-Chairman of the Board*

The Chairman of the Executive Committee *(who is also Vice-Chairman of the Board)* shall preside at meetings of the Executive Committee and at meetigns of the members. Subject to the approval of the Board, [he]*the Chairman of the Executive Committee* may appoint standing and special committees unless the method of appointment is otherwise provided for in the Constitution or Rules *or in the resolution of the Board establishing the committee.* [He] *The Chairman of the Executive Committee* shall be responsible for the coordination of the activities of all committees. He shall be an ex-officio member, without a right to vote, of all committees, without prejudice to [his] being specifically appointed as a voting member of any committee. [He is the Vice Chairman of the Board.] In the case of the absence or inability to act of the Chairman of the Board, or in case of a vacancy in the office of the Chairman of the Board, [he]*the Chairman of the Executive Committee* shall exercise the powers and discharge the duties of the Chairman of the Board.

Section 8.4 Acting Chairman

In the absence or inability to act of both the Chairman of the Board and the Chairman of the Executive Committee, the Board may designate an Acting Chairman of the Board. In the absence of such a designation by the Board, the President, or in his absence or inability to act, the senior available Vice-President, shall assume all the functions and discharge all the duties of the Chairman of the Board.

Section 8.5 Vacancy in Office of Chairman of the Executive Committee

(a) If the Chairman of the Executive Committee shall cease to *satisfy the requirements for election to* [be a member] *that office*, he shall thereupon cease to hold his office and such office shall become vacant, provided that if his

membership is suspended he may continue to hold office unless he is removed pursuant to paragraph (a) of section 8.7.

(b) If a vacancy occurs in the office of Chairman of the Executive Committee[,] pursuant to paragraph (a) of this section[,] or[,] if for any other reason the office becomes vacant, the Board, by the affirmative vote of a majority of the Directors then in office, shall fill such vacancy by the election to such office of a Director then in office who [owns or directly controls his own membership] *satisfies the requirements for election to such office.*

Section 8.6 President

The President shall be the chief operating officer of the Exchange. The President shall, by virtue of his office, be [a member of the Board of Directors and] an ex-officio member, without a right to vote, of all committees *other than committees whose membership is limited to directors of the Exchange,* without prejudice to his being specifically appointed as a voting member of any committee *other than a committee limited to directors.* Except as is otherwise provided in the Certificate of Incorporation, the Constitution or the Rules, the President shall have the power to employ and dismiss employees of the Exchange, and to establish their qualifications, duties, and salaries; he shall execute all authorized contracts on behalf of the Exchange and shall perform such other duties as may be prescribed by the Board from time to time. The President shall not engage in any other business during his incumbency as President, and by his acceptance of the office of President, he shall be deemed to have agreed and he shall have agreed to uphold the Constitution and Rules. In case of his temporary absence or inability to act he may designate any other officer to assume all the functions and discharge all the duties of the President. Upon his failure to do so, or if the office of President be vacant, the chairman of the Board or any officer designated by him shall perform the functions and duties of the President. When the President returns or is again able to act, he shall resume his duties.

Section 8.7 Removals

(a) No Change.

(b) Any officer, other than the Chairman of the Executive Committee, chosen by the Board may be removed at any time by the Board whenever in its judgment the best interests of the Exchange would be served thereby; provided, that the Chairman of the Board or the President may be removed only by the affirmative vote of at least [two thirds] *two-thirds* of the Directors then in office exclusive of the Chairman of the Board [and the President], who shall not vote. Any such removal shall be without prejudice to the contract rights, if any, of the person so removed.

(c) No Change.

Section 8.8 Vice Presidents

No Change.

Section 8.9 Secretary

No Change.

Section 8.10 Treasurer

No Change.

* * * * *

Article XI; General Provisions

Section 11.1 Fiscal Year

No Change.

Section 11.2 Checks, Drafts and Other Instruments

No Change.

Section 11.3. Departments

No Change.

Section 11.4 Officers and Employees Restricted

(a) Every Salaried officer or employee of the Exchange, except the Chairman of the Executive Committee, and every salaried officer or employee of any corporation in which the Exchange owns the majority of the stock, shall report promptly to the Exchange every purchase or sale for his *or her* own account or the account of others of any security which is the underlying security of any option contract admitted to dealing on the Exchange.

(b) With the exception of the Chairman of the Executive Committee, no salaried officer or employee of the Exchange or salaried officer or employee of any corporation in which the Exchange owns the majority of the corporate stock may purchase or sell for his *or her* own account or for the account of others any option contract which entitles the purchaser to purchase or sell any security described in paragraph (a) of this Section

No Change.

Article XII; Amendment

Section 12.1 Constitution

The Constitution may be amended at any regular or special meeting of members by the affirmative vote of a majority of the members present in person or represented by proxy at the meeting[; provided, however, that any amendment to Section 2.1(d), Section 2.6(b) and (c), or to this Section 12.1 having an adverse effect on special members must be approved by the affirmative vote of a majority of both the special members eligible to vote and the regular members present in person or represented by proxy at the meeting, voting as separate classes].

Section 12.2 Rules

The Rules may be amended by the affirmative vote of a majority of the Directors present at a meeting at which such amendment is proposed, provided, however, that promptly upon *the* adoption of an amendment of the Rules, notice there shall be sent to each member, and within 15 days after such notice has been given, 150 or more *voting* members may request in writing that a special meeting of members be held to vote upon whether the amendment to the Rules shall be approved. The notice of the meeting shall state that the approval of such a proposed amendment will be considered.

Section 12.3 Effectiveness of Amendments

Subject to applicable federal or state regulatory requirements, amendments to the Constitution shall be effective upon their adoption by the members, and amendments to the Rules shall be effective at the expiration of the 15-day notice period, or, if a special meeting of members has been requested to vote upon the amendment *or if the amendment otherwise requires membership approval,* at the time the amendment is approved by the *requisite vote of the members; provided, however, that, except in the case of a Rule that expressly requires amendments to be approved by the membership or by a class of members,* the Board may declare an amendment to the rules effective immediately upon its adoption by the Board whenever the Board determines that, under the circumstances, such accelerated effectiveness is appropriate. Any amendment to the rules which is declared effective by the Board upon its adoption nevertheless remains subject to being voted upon at a special meeting of members in accordance with section 12.2, and any such amendment which is so voted upon but not approved shall be rescinded and shall cease to be effective from and after the time of its failure to be approved by the members. The rights and obligations of persons who rely in good faith on an amendment to the rules declared immediately effective by the Board shall not be affected in the event such amendment is subsequently disapproved by the members.

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 CBOE 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 CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Purpose

The CBOE proposes to make certain revisions to provisions of its Constitution pertaining to the governance of the Exchange. In particular, the CBOE proposes to increase the public representation on the Exchange's Board of Directors from four to eight public directors. The CBOE also proposes to require that at least one seat on the Board be held by an owner/lessor of a CBOE membership who is not actively engaged in business as a broker-dealer, reflecting the increasing number of CBOE memberships that are held by such "passive" lessors. To accommodate the greater number of public directors and the lessor director, the CBOE proposes to increase the total size of the Board from 21 to 23 directors, and to reduce the number of floor directors from six to four. The CBOE also proposes that the President of the Exchange will no longer be an *ex-officio (i.e.,* by virtue of the position) director. The number of off-floor member firm directors and at-large directors will remain unchanged at six directors and three directors, respectively, and the Chairman will continue to serve as an *ex-officio* director. Directors will continue to be elected for three-year terms, with all categories of directors to be elected by the membership. For transitional purposes, each director currently serving on the Board will be assigned to one of the three classes to permit those directors to complete their current terms of office.

The Exchange also proposes to clarify certain requirements applicable to the specific categories of directors as follows: in addition to the current requirement that floor directors must be primarily engaged in business on the floor of the Exchange, the CBOE proposes to specify that they must be "on a seat" (*i.e.,* acting in the capacity of a member) in connection with their floor activity. The CBOE also proposes to clarify the current requirement that a floor director own or control a membership by specifying that a floor director may own a membership indirectly through an interest in a corporation, partnership, limited liability company, trust or other entity that owns one or more memberships directly, so long as the director has the sole and exclusive right to vote a membership and control its sale, and is in possession of all of the risks and rewards of a direct owner of at least 50% interest in a membership. Finally, the CBOE proposes to specify that the Vice-Chairman of the Exchange (the Chairman of Executive Committee) must not only own a membership (as required under the current Constitution), but also must be primarily engaged in business on the floor of the Exchange.

The Exchange also proposes to expand the size of the Nominating Committee from seven to ten members to add representatives of retail firms, lessors and the public to that Committee. The Nominating Committee will judge the qualifications of all candidates for election to the Board or the Nominating Committee who are nominated by that Committee, and the Executive Committee will judge the qualifications of candidates who are nominated by petition. As proposed, the Nominating Committee would consist of four floor members (except during the first two transition years, when the number of floor members would first be six, and then five), two members who represent firms that primarily conduct a public customer business, two members who are lessors of their memberships (at least one whom must be a "passive" lessor, as described above), and two public members. All of the members of the Nominating Committee will be elected by the membership for three-year terms, except during a transition period, some members will be elected for shorter terms. The new retail firm, lessor, and public members of the Nominating Committee to serve with respect to the 1999 annual election will be appointed by the Chairman of the Executive Committee, with the approval of the Board.

Finally, the CBOE proposes to modify the timetable for various election matters that are provided for in the Constitution to advance the time when the Chairman of the Executive Committee (the Vice-Chairman of the Exchange) is selected by a few weeks. This proposed change is intended to enable the Vice-Chairman to complete the process of selecting chairpersons of the various Exchange committees by the end of the year.

The Exchange also proposes to make a few "housekeeping" changes to the Constitution to delete obsolete provisions. For example, the CBOE proposes to delete all references to "special" members of the Exchange, because there are no longer any members in this category.

2. Basis

The CBOE believes that the proposed amendments to the Constitution further the objectives of Section 6(b)(3) of the Act [4] to assure fair representation of the members of the Exchange in the selection of its directors and in the administration of its affairs, and to provide that one or more members of the Board of Directors must be representatives of investors (*i.e.,* public directors).

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition 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

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 date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the

[4] 15 U.S.C. 78f(b)(3).

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–43 and should be submitted by September 28, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23108 Filed 9–3–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41799; File No. SR–DTC–99–20]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Implementing a Freeze on New Participant Accounts and a Contingency Plan for Withdrawal by Transfer Transactions

August 27, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (Act),[1] notice is hereby given that on August 19, 1999, The Depository Trust Company (DTC) 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 primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change provides that generally, DTC will not activate any new participant accounts after September 15, 1999, and until reasonably practicable in January 2000.[2] In addition, DTC will temporarily implement a contingency plan for the processing of withdrawal by transfer (WT) transactions in the unlikely event that participant's customers seek to withdraw security positions from participants due to concerns regarding systems problems related to the century date change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

September 15th New Participant Account Freeze

The proposed rule change provides that generally DTC will not activate any new participant accounts after September 15, 1999 (the end of the participant validation testing period),[4] and until reasonably practicable in January, 2000. DTC announced in its June 3, 1999, Important Notice that "[a]ny organization currently seeking admission as a direct Participant should plan to complete the admission process by [September 15], or defer activation of its account until after the century date change. Similarly, Participants wishing to switch to computer-to-computer input of settlement-related transactions or switch to another mode of computer-to-computer input for transactions must have completed implementation of the changes (and complete the necessary validation testing) by September 15."

DTC's Rule 2 provides in part that:

> The Corporation may decline to accept the application of any applicant upon a determination by the Corporation that the Corporation does not have adequate personnel, space, data processing capacity or other operational capability at that time to perform its services for additional Participants without impairing the ability of the Corporation to provide services for its existing Participants, to assure the prompt, accurate and orderly processing and settlement of Securities transactions, to safeguard the funds and Securities held by or for the Corporation for Participants or Pledgees or otherwise to carry out its functions; provided, however, that applicants whose applications are denied pursuant to this paragraph shall be approved as promptly as the capabilities of the Corporation permit in the order in which their applications were filed with the Corporation.

DTC believes that continuing to activate numerous new participant accounts or allowing participants to change their mode of settlement-related computer input after September 15th could potentially be disruptive to the rest of its Year 2000 efforts. Specifically, DTC will be devoting a great deal of resources to its second internal certification test in October and November of 1999. The internal certification test involves the testing of DTC's mainframe applications and systems in order to confirm their Year 2000 readiness. Additionally, DTC would like to ensure that it has enough time to deal with any unanticipated issues that arise before the end of the calendar year.

Withdrawal By Transfer Contingency Plan

In response to concerns expressed by some participants and in consultation with the Securities Industry Association and the Securities Transfer Association, DTC will temporarily implement a contingency plan to deal with the processing of an increased number of WT transactions (WT contingency plan). The concerns stem from the possibilitly that customers will seek to withdraw security positions from participants due to fears relating to the century date change in spite of customer education campaigns by participants and industry groups. Should a potential substantial increase in volume materialize, the WT contingency plan will enable DTC to process as many as 30,000 WT transactions daily, over triple the current volume of 9,000 WTs daily. Because WT processing and the related direct mail service[5] are highly labor intensive operations for DTC and transfer agents alike, the WT contingency plan also provides a

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The proposed rule change is also applicable to DTC's Mortgage Backed Securities Division.

[3] The Commission has modified the text of the summaries prepared by DTC.

[4] Securities Exchange Act Release No. 40696 (November 20, 1998), 63 FR 65829 (Commission order approving DTC's validation testing requirement).

[5] DTC's direct mail service is comprised of two components, direct mail by the agent (DMA) and direct mail by DTC (DMD). Participants may elect to use either DMA or DMD to have their newly issued WT securities mailed directly to customers by transfer agents or DTC, respectively.

mechanism for curbing volume in the unlikely event it exceeds 30,000 WT requests on any given day. As described in more detail below, this aspect of the contingency plan will potentially affect only participants whose volumes grow substantially higher than their present day volumes.

The WT contingency plan will be implemented and remain in effect during the fourth quarter of 1999.[6] The WT contingency plan is primarily comprised of (1) an internal task force of employees available to process increased volumes and (2) system changes to DTC's automated WT (AWT) system, which commences the WT processing stream. The AWT system changes described below are designed to prevent daily WT volume from exceeding 30,000 items in a manner that is fair and equitable to all participants and requires no programming changes by participants.

DTC has established a database showing the maximum allowable amount of WTs for each participant. The maximum allowable amount is based on participants' daily average WT volume for the three month period of February through April 1999. The maximum allowable amounts will be triggered only if the aggregate number of WTs submitted by participants exceeds the threshold of 30,000 on any day in the fourth quarter. A participant exceeding its maximum allowable amount will not be limited in its WT volume as long as fewer than 30,000 WTs are requested in total.

During the fourth quarter, the AWT system will initially process WT requests as normal, collecting WT requests transmitted by participants and sending them to the account transaction processor (ATP) to perform account updating. The WTs are processed in the same sequence as transmitted by participants. This process is usually finished each day by 9:30 a.m. Eastern Time (ET).

Under the proposed rule change a new procedure will be introduced in which AWT will count the aggregate number of items successfully processed by ATP to determine whether the overall cap of 30,000 items was exceeded, and the excess amount (total reversal amount). If the cap is exceeded, procedures will begin to automatically identify and reverse the required number of WTs to lower the day's total to 30,000 items. To accomplish this, AWT will identify the participants that surpassed their maximum allowable amounts and will record the excess items that were processed after their maximum allowable amounts were reached. The excess items will be stored on a temporary file, sorted in last in first out order by participant. The system will then select one excess item per participant from the temporary file and will continuously repeat this process until enough excess items have been selected to meet the total reversal amount. WT reversal transactions will then be created and processed to reverse the chosen excess WTs. This WT reversal process will be finished by approximately 9:45 a.m. (ET). Normal processing for WTs not reversed will then resume with DTC preparing certificates and transfer registration instructions for delivery to transfer agents.

Under the proposed rule change DTC will not automatically pend WTs that were reversed by the above procedure. Participants will therefore be required to submit new WT requests the following business day.

DTC believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder. In particular, the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act[7] which requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[8] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission finds that the proposed rule change is consistent with this obligation because the proposed modifications to DTC's Year 2000 policies will permit DTC sufficient time before year end to complete its Year 2000 preparations. In addition, the implementation of the proposed WT contingency plan will enable DTC to deal with any substantial increase in the processing of WT transactions. As a result, DTC should be able to continue to provide prompt and accurate clearance and settlement of securities transactions before, on, and after Year 2000 without interruption.

DTC requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing because such approval will allow DTC to better prepare for a smooth Year 2000 transition.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR–DTC–99–20 and should be submitted by September 28, 1999.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (File No. SR–DTC–99–20) be and hereby is approved.

[6] In the unlikely event that DTC experiences sustained volumes of 30,000 WTs daily into the first quarter of the Year 2000, DTC will keep the WT contingency plan in effect until such time as volumes return to normal levels.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78s(b)(2).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41803; File No. SR–MBSCC–99–05)]

Self-Regulatory Organizations; MBS Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Acceptance of Letters of Credit

August 27, 1999.

On June 25, 1999, the MBS Clearing Corporation ("MBSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–MBSCC–99–05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to permit MBSCC to replace its current letter of credit form with a letter of credit form developed by the Uniform Clearing Group ("UCG").[2] Notice of the proposal was published in the **Federal Register** on August 13, 1999.[3] No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

Article IV, Rule 2, Section 9 of MBSCC's rules governs deposits of letters of credit by participants to the participants' fund for margin purposes. Currently, the rule requires participants to amend letters of credit expiring on September 1 by extending the expiration date to March 1 of the following year and to deposit new letters of credit on March 1 of the following year. The proposed rule change will reserve these dates and require participants to annually provide new letters of credit by September 1 and to amend letters of credit by March 1. The proposed rule change will also require that letters of credit delivered to MBSCC on or after September 1, 1999, be in the form of the uniform letter of credit ("ULC") developed by the UCG.

The ULC consists of a cover page with variable terms plus preprinted uniform terms. Variable terms include the name of the participant, the beneficiary clearing organization, the issuing bank, the amount of the credit, and the expiration date. To assist letter of credit issues and participants in completing the ULC, the UCG has drafted general instructions. In addition, MBSCC has provided supplemental instructions relating specifically to letters of credit furnished to MBSCC.

MBSCC expects that in the future modifications may be made to the ULC. If and when that occurs, MBSCC will require its members to use the revised form.[4]

II. Discussion

Section 17A(b)(3)(F)[5] of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. MBSCC and the other members of the UCG developed the ULC to foster uniformity among the various U.S. securities and futures clearing organizations with respect to letters of credit that are deposited as collateral. This uniformity will help reduce operational burdens for securities and futures industry participants and their letter of credit issuers. It should also enhance the legal certainty that the letters of credit received by MBSCC and other UCG members as collateral will be enforceable. Accordingly, the Commission finds that the rule change is consistent with MBSCC's obligations under the Act.

MBSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will permit MBSCC to implement the ULC by September 1, 1999, at which time its previous letters of credit expire. Since September 1, 1999, is the scheduled implementation date of the ULC by certain UCG members, accelerated approval will also provide for a more coordinated implementation of the ULC. Furthermore, the Commission has not received any comment letters and does not expect to receive any comment letters on the proposal.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–MBSCC–99–05) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23110 Filed 9–3–99; 8:45 am]

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SECURITIEIS AND EXCHANGE COMMISSION

[Release No. 34–41802; File No. SR–GSCC–99–03]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Acceptance of letters of Credit as Clearing Fund Collateral

August 27, 1999.

On May 3, 1999, the Government Securities Clearing Corporation ("CSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–GSCC–99–03) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to permit GSCC to replace its current letter of credit form with a letter of credit form developed by the Uniform Clearing Group ("USG").[2] Notice of the proposal was published in

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The UCG is an organization comprised of all of the major securities and futures clearing organizations and depositories in the U.S. The members of the UCG include the Boston Stock Exchange Clearing Corporation, The Depository Trust Company, Government Securities Clearing Corporation, MBSCC, National Securities Clearing Corporation, Options Clearing Corporation, Board of Trade Clearing Corporation, Chicago Mercantile Exchange, Clearing Corporation of New York, Kansas City Board of Trade, Minneapolis Grain Exchange, New York Mercantile Exchange, Emerging Markets Clearing Corporation, and Clearing Corporation for Options and Securities.

[3] Securities Exchange Act Release No. 41717 (August 6, 1999), 64 FR 44250.

[4] MBSCC will file a proposed rule change with the Commission prior to requiring members to comply with any substantive change made to the ULC by the UCG.

[5] U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The UCG is an organization comprised of all major securities and futures clearing corporations and depositories in the United States. The members of the UCG include the Boston Stock Exchange Clearing Corporation, The Depository Trust Company, GSCC, MBS Clearing Corporation, National Securities Clearing Corporation, The Options Clearing Corporation, Board of Trade Clearing Corporation, Chicago Mercantile Exchange, Clearing Corporation of New York, Kansas City Board of Trade, Minneapolis Grain Exchange, New York Mercantile Exchange, Emerging Markets Clearing Corporation, and Clearing Corporation for Options and Securities

the **Federal Register** on August 13, 1999.[3] No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

GSCC's Rule 4, Section 4 permits GSCC to accept letters of credit (in addition to cash and eligible netting securities) as clearing fund collateral. GSCC's rules define "eligible letter of credit" as a letter of credit that is, among other things, "in a form, and contains such other terms and conditions, as may be required by the Corporation." GSCC has determined that as of September 1, 1999, a letter of credit delivered to GSCC as clearing fund collateral must be in the form of the uniform letter of credit ("ULC") developed by the UCG. To accommodate the ULC, the rule change will amend GSCC's definition of "eligible letter of credit" to conform it with the uniform letter of credit.

The ULC consists of a (i) a cover page with variable terms and (ii) uniform terms. Variable terms include the name of the clearing member, the beneficiary clearing organization, the issuing bank, the amount of the credit, and the expiration date. General instructions drafted by the UCG assist clearing organization members in completing the ULC. In addition, GSCC has provided supplemental instructions to assist members specifically with letters of credit furnished to GSCC.

According to GSCC, the ULC provides that the presentment of a demand for payment can be accomplished at the discretion of the clearing corporation by hand delivery, facsimile transmission, or SWIFT message. If the demand is made before GSCC's pre-set cutoff time, the bank issuing the letter of credit must effect payment within sixty minutes.

It is expected that from time to time modifications will be made to the ULC by the UCG. If and when that occurs, GSCC will require its members to use the revised form.[4]

II. Discussion

Section 17A(b)(3)(F)[5] of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. GSCC and the other members of the UCG developed the ULC to foster uniformity among the various U.S. securities and futures clearing organizations with respect to letters of credit that are deposited as collateral. This uniformity will help reduce operational burdens for industry participants and their letter of credit issuers. It should also enhance the legal certainty that the letters of credit received by GSCC and other UCG members as collateral will be enforceable.[6] Accordingly, the Commission finds that the rule change is consistent with GSCC's obligations under the Act.

GSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will permit GSCC to implement the ULC by September 1, 1999, at which time its previous letters of credit expire. Since September 1, 1999, is the scheduled implementation date of the ULC by certain UCG members, accelerated approval will also provide for a more coordinated implementation of the ULC. Furthermore, the Commission has not received any comment letters and does not expect to receive any comment letters on the proposal.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–99–03) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23109 Filed 9–3–99; 8:45 am]

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[3] Securities Exchange Act Release No. 41715 (August 6, 1999), 64 FR 44249.

[4] GSCC will file a proposed rule change with the Commission prior to requiring members to comply with any substantive change made to the ULC by the UCG.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] For example, the ULC recites certain understandings regarding the issuing bank's obligation to honor a demand. GSCC states that these understandings restate the existing principles governing letters of credit and were added to reduce the likelihood of dispute.

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41801; File No. SR–NSCC–99–05]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Acceptance of Letters of Credit

August 27, 1999.

On April 20, 1999, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–99–05) pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] to permit NSCC to replace its current letter of credit form with a letter of credit form developed by the Uniform Clearing Group ("UCG").[2] Notice of the proposal was published in the **Federal Register** on August 13, 1999.[3] No comment letters were received. For the reasons discussed below, the Commission is granting accelerated approval of the proposed rule change.

I. Description

Rule 4, Section 1 of NSCC's Rules and Procedures permits NSCC to accept letters of credit in addition to cash and government securities as collateral for its clearing fund.[4] The proposed rule change will require that letters of credit delivered to NSCC on or after September 1, 1999, be in the form of the uniform letter of credit ("ULC") developed by the UCG.

The ULC consists of a cover page plus the uniform terms. All variable terms of the ULC, such as the name of the clearing member, the beneficiary clearing corporation, the issuing bank, the amount of the credit, and the expiration date, are set forth on the cover page. To assist members in completing the ULC, the UCG drafted general instructions. In addition, NSCC has provided supplemental instructions

[1] 15 U.S.C. 78s(b)(1).

[2] The members of the UCG include the Boston Stock Exchange Clearing Corporation, The Depository Trust Company, Government Securities Clearing Corporation, MBS Clearing Corporation, NSCC, The Options Clearing Corporation, Board of Trade Clearing Corporation, Chicago Mercantile Exchange, Clearing Corporation of New York, Kansas City Board of Trade, Minneapolis Grain Exchange, New York Mercantile Exchange, Emerging Markets Clearing Corporation, and Clearing Corporation for Options and Securities.

[3] Securities Exchange Act Release No. 41716 (August 6, 1999), 64 FR 44252.

[4] Securities Exchange Act Release No. 18052 (August 21, 1981), 46 FR 43341.

relating specifically to letters of credit furnished to NSCC.

NSCC expects that modifications may be made to the ULC in the future. If and when that occurs, NSCC will require its members to use the revised form.[5]

II. Discussion

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. NSCC and the other members of the UCG developed the ULC to foster uniformity among the various U.S. securities and futures clearing organizations with respect to letters of credit that are deposited as collateral. This uniformity will help reduce operational burdens for securities and futures industry participants and their letter of credit issuers. It should also enhance the legal certainty that the letters of credit received by NSCC and other UCG members as collateral will be enforceable. Accordingly, the Commission finds that the rule change is consistent with NSCC's obligations under the Act.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for so approving the proposed rule change because accelerated approval will permit NSCC to implement the ULC by September 1, 1999, at which time its previous letters of credit expire. Since September 1, 1999, is the scheduled implementation date of the ULC by certain UCG members, accelerated approval will also provide for a more coordinated implementation of the ULC. Furthermore, the Commission has not received any comment letters and does not expect to receive any comment letters on the proposal.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–99–05) be and hereby is approved.

[5] NSCC will file a proposed rule change with the Commission prior to requiring members to comply with any substantive changes made to the ULC.

[6] 15 U.S.C. 78q–1(b)(3)(F).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23111 Filed 9–3–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41800; File No. SR–NSCC–99–10]

Self-Regulatory Organizations; The National Securities Clearing Corporation; Order Granting Accelerated Approval of a Proposed Rule Change Relating to Arrangements to Integrate the National Securities Clearing Corporation and The Depository Trust Company

August 27, 1999.

On August 5, 1999, the National Securities Clearing Corporation filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–NSCC–99–10) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").[1] Notice of the proposal was published in the **Federal Register** on August 16, 1999.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change on an accelerated basis.

I. Description

The rule change involves arrangements to integrate NSCC and The Depository Trust Company ("DTC"). Under the rule change, NSCC and DTC will form a New York corporation ("Holding Company") that will own directly all of the outstanding stock of NSCC and will own indirectly through a Delaware subsidiary of the Holding Company all of the outstanding stock of DTC.

The Holding Company will issue two classes of stock: common and preferred. The Holding Company will conduct two exchange offers in which (1) current DTC stockholders will have the opportunity to exchange their DTC shares for Holding Company common stock on a one-for-one basis and (2) the New York Stock Exchange ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD"), the two current stockholders of NSCC, will be offered shares of Holding Company preferred stock on a one-for-one basis in exchange for their NSCC shares.

In connection with the exchange for shares of DTC stock, the current DTC Stockholders Agreement has been amended to provide that if a specified super majority of DTC stockholders tender their shares of DTC stock for shares of Holding Company common stock: (1) any DTC stockholders that fail to tender their shares DTC stock will cease to be qualified holders of DTC stock; (2) their shares of DTC stock will automatically be transferred to NSCC; (3) NSCC will tender such shares of DTC stock to the Holding Company in exchange for an equivalent number of shares of Holding Company common stock; and (4) the non-tendering DTC stockholders will be paid DTC book value for their shares of DTC stock as and when NSCC, in accordance with procedures set forth in the Holding Company Shareholders Agreement, sells or transfers its shares of Holding Company common stock to other participant or members of DTC and NSCC.[3]

The Holding Company's Articles of Incorporation, By-Laws, and Shareholders Agreement ("Basic Documents")[4] contain provisions designed to preserve the rights that the stockholders of NSCC and DTC currently have in particular to satisfy the fair representation requirement of Section 17A(b)(3)(C) of the Act.[5] Specifically, the Basic Documents provide for the following:

- As owners of Holding Company preferred stock, the NYSE and the NASD each will have the right to put one person on the Board of Directors of the Holding Company. All other directors will be elected annually by the owners of Holding Company common stock. The Holding Company will elect as the directors of NSCC and DTC the persons that the stockholders of the Holding Company elect as the directors of the Holding Company.
- The rights to purchase Holding Company common stock will be reallocated to the users of NSCC and DTC based upon the users' usage of the clearing agencies' services and facilities. Under the Basic Documents, these rights will be reallocated initially in 2000 and again in 2001. Thereafter, depending

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 41719 (August 9, 1999), 64 FR 44569.

[3] NSCC has informed the Commission that the procedures to be used by NSCC to sell or transfer Holding Company common stock are in all material respects the same as the procedures set forth in DTC's Stockholders Agreement applicable to the sale by a stockholder of DTC shares.

[4] NSCC included the Basic Documents as exhibits to its filing, which is available for inspection and copying in the Commission's public reference room and through NSCC.

[5] 15 U.S.C. 78q–1(b)(3)(C).

upon whether there are significant changes in entitlements and stock purchases, the Board of the Holding Company will be permitted to schedule reallocations every other year or every third year rather than annually.

• The owners of Holding Company common stock will be able to exercise cumulative voting in the election of Holding Company directors.

Each year the Holding Company's Board of Directors will appoint a nominating committee that may include both members and non-members of the Board. After soliciting suggestions from all users of the clearing agencies of possible nominees to fill vacancies on the Board, the nominating committee will recommend a slate of nominees to the full Board. The Board may make changes in that slate before submitting nominations to the holders of Holding Company common stock for election. The election ballot included in the proxy materials will provide an opportunity for stockholders to vote for a person not listed as a nominee. Because the Basic Documents provide for cumulative voting, it will be possible for one or more owners of Holding Company common stock to arrange to elect a person not on the slate nominated for election by the Board.

NSCC and DTC will continue to operate as they do currently, and each will offer its own services to its own participants and members pursuant to separate legal arrangements and separate risk management procedures. NSCC has informed the Commission that the Holding Company will not engage in any clearing agency activities but that it will provide certain support functions, including human resources, finance, audit, general administration, corporate communications, and legal, which support functions will be centralized in the Holding Company, to NSCC and DTC pursuant to service contracts.

II. Discussion

Section 17A(b)(3)(C) of the Act[6] requires that the rules of a clearing agency assure a fair representation of its shareholders (or members) and participants in the selection of its directors and administration of its affairs. The Commission believes that the proposed rule change is consistent with NSCC's obligations under Section 17A(b)(3)(C) because it should provide NSCC's members with a reasonable opportunity to acquire common stock in the Holding Company in proportion to their use of NSCC and DTC and should provide NSCC's members through their holding of Holding Company stock with adequate and fair representation in the selection of NSCC's directors and in the administration of NSCC's affairs.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice will allow NSCC to proceed with the exchange offer to its shareholders in which the shareholders may exchange their shares in NSCC for preferred stock in the Holding Company.

III. Conclusion

On the basis of the foregoing, the Commission finds that NSCC's proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–99–10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23112 Filed 9–3–99; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78q–1(b)(3)(C).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41788; File No. SR–Phlx–99–29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Mandatory Trading Floor Training Requirements

August 25, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 1999, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx Rule 625, Options Trading Floor Training, to include equity floor members.[3] The proposal will require all equity floor members and their respective personnel to complete mandatory training related to that employee's function on the trading floor. The Exchange proposes to adopt new Equity Floor Procedure Advice, F–30, Equity Trading Floor Training, and an accompanying fine schedule, such that a minor rule violation enforcement and reporting plan ("minor rule plan") citation could be issued.[4] The text of amended Rule 625 and new Equity Floor Procedure Advice is presented below. Deleted text is brackets, and new text in italics.

F–30 *EQUITY TRADING FLOOR TRAINING*

All new equity floor members, whether specialists or floor brokers, and their respective personnel, shall successfully complete mandatory training related to that employee's function on the trading floor. All current members and their respective personnel shall be subject to continuing mandatory training requirements in order to instruct these individuals on changes in existing automated systems or any new technology that is utilized by the Exchange.

Failure to attend the scheduled mandatory training described above may result in the issuance of a fine in accordance with the fine schedule below.

Fine Schedule (Implemented on a three year running calendar basis)

F–30

1st Occurence	$250.00
2nd Occurence	$350.00
3rd Occurence	$500.00

[3] On March 22, 1999, the Commission approved a similar proposal with respect to equity option and index option floor members. *See* Securities Exchange Act Release No. 41201 (March 22, 1999) 64 FR 15391 (March 31, 1999) (SR–Phlx–99–06).

[4] The Phlx's minor rule plan, codified in Phlx Rule 970, contains floor procedure advices with accompanying fine schedules. Rule 19d–1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d–1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

4th Occurence Sanction is discretionary with Business Conduct Committee

Rule 625 [Options] Trading Floor Training

All new *equity,* equity option and index option floor members, whether specialists, floor brokers or Registered Options Traders, and their respective personnel, shall successfully complete mandatory training related to that employee's function on the trading floor. All current members and their respective personnel shall be subject to continuing mandatory training requirements in order to instruct these individuals on changes in existing automated systems or any new technology that is utilized by the Exchange.

II. Self-Regulatory Organization's Statement Regarding 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 IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposal is to require all new equity floor members, whether specialists or floor brokers, and their respective personnel, to attend mandatory training related to that employee's function on the trading floor. In addition, all current equity floor members and their respective personnel shall be subject to continuing training requirements. The Exchange believes that continued training requirements are necessary in order to instruct these individuals on changes in existing automated systems or new technology that is utilized by the Exchange. The Exchange intends to schedule and give notice of such training sessions, as it deems appropriate. In this way, the proposal should help to ensure that all members are familiar with new technology or changes in existing technology.

Technology advances are ever-changing. To benefit users and remain competitive, the Exchange believes it is imperative to implement technology improvements and system enhancements. Moreover, these improvements and enhancements often provide for more efficient and quicker dissemination of information to the markets, thereby allowing investors to receive information on a more timely basis. Furthermore, technology improvements and system enhancements generally reduce the risk of clerical error. Therefore, the Exchange believes that mandated training will help to ensure that Exchange members and their respective personnel are proficient in using new technology, which should help to promote a more efficient trading environment.

Additionally, the mandated training requirement would be incorporated as an Equity Floor Procedure Advice, such that a minor rule plan citation could be issued.[5] The minor rule plan will enable the Exchange to quickly sanction members for non-compliance.[6] Under Phlx Rule 625, if an Exchange member has not participated in mandatory or continuing training requirements, a fine can be issued immediately. The Phlx believes the issuance of a fine will help to alleviate situations where failure to partcipate in mandatory training is a recurring problem, because violations by a member organization will result in escalating fines, and, eventually, possible disciplinary action by the Exchange's Business Conduct Committee ("BCC"). For failure to attend an Exchange mandated training class, the Exchange proposes a fine of (i) $250 for a first offense; (ii) $350 for a second offense; and (iii) $500 for a third offense. The sanction is discretionary with the BCC for a fourth offense. The Exchange believes that this type of violation is appropriate for the minor rule plan because it is objective and, thus violations are readily subject to verification.

For these reasons, the Exchange believes that the proposal is consistent with Section 6 of the Act,[7] in general, and with Section 6(b)(5),[8] in particular, in that it is designed to facilitate transactions in securities and to promote just and equitable principles of trade. Specifically, the Exchange believes that the proposal will promote a more efficient trading environment by (i) educating personnel regarding the use of improved technology and system enhancements; (ii) providing for quicker dissemination of information because the Exchange can train personnel as soon as changes are made; and (iii) lessening the risk of clerical errors. Moreover, mandatory training for equity floor-members and their respective personnel is consistent with the provisions of Section 6(c)(3)(B) of the Act,[9] which makes it the responsibility of an exchange to prescribe standards of training, experience, and competence for persons associated with self-regulatory organization members. In addition, the Exchange believes the proposal is consistent with the Securities Industry Continuing Education Program, which seeks to promote the protection of investors through periodic training of securities professionals.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date on which it was filed and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the filing date, it has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6)[11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public

[5] The Phlx also proposes to amend its minor rule plan to include the new advice.

[6] The Fine Schedule allows for a fine to be implemented on a three-year running calendar basis. The term "three-year running calendar basis" means that the Exchange will impose sanctions on a three-year running cycle, by which a violation of the training requirements which occurs within three years of the first violation of the training requiremenets, will be treated as a second occurrence, and any subsequent violation within three years of the previous violation of the training requirements will be subject to the next hgighest sanction specified in the Fine Schedule.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78f(c)(3)(B).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. 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 pubic 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 the Phlx. All submissions should refer to File No. SR–Phlx–99–29 and should be submitted by September 28, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–23106 Filed 9–3–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The IRC describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 1, 1999 (64 FR 29401–29405).

DATES: Comments must be submitted on or before October 7, 1999. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Antidrug Program for Personnel Engaged in Specified Aviation Activities.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0535.

Form(s): FAA Form 9000–2.

Affected Public: An estimated 6,700 specified aviation employers.

Abstract: 14 CFR part 121, appendix I and J, requires specified aviation employers to implement and conduct FAA-approved antidrug programs. The FAA receives drug test reports from the aviation industry to monitor program compliance, institute program improvements, and anticipate program problem areas.

Estimated Burden Hours: 38,679 burden hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW, Washington, DC 20503, Attention: FAA Desk Officer.

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's 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.

Issued in Washington, DC, on August 31, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 99–23202 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) asbstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 1, 1999, 64 FR 29404–29405).

DATES: Comments must be submitted on or before October 7. 1999. A comment to OMB is most effecitve if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Operating Procedures for Airport Traffic Control Towers (ATCT) that are not operated by or under contract with the United States (non-Federal) AC90–93.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0572.

Forms(s): FAA Forms 7210–2; 7210–3; 7230–4; 7230–7.2; 7230–8; 7230–10; 8020–9; 8020–11; 8020–17; 8020–19; 8020–21.

Affected Public: An estimated 44 Non Federal Airport Traffic Control Towers (ATCT)

Abstract: The intent of the Advisory Circular (AC) and this collection of information is to maintain a high level of air safety without regulating certain entities that previously were not regulated. With this rationale in mind, the FAA is requesting operators for non-Federal ATCT to voluntarily comply with the regulations as stated in this AC, as well as to voluntarily submit information by using the listed forms, in the same manner as is currently prescribed for FAA air traffic personnel.

Estimated Annual Burden Hours: 1606 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory

[12] 17 CFR 200.30–3(a)(12).

Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention: FAA Desk Officer.

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's 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.

Issued in Washington, DC, on August 23, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 99–23203 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collections. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on June 1, 1999, (64 FR 29404–29405).

DATES: Comments must be submitted on or before October 7, 1999. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Airport Master Record.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0015.

Form(s): N/A.

Affected Public: Civil airports.

Abstract: 49 USC 329(b) directs the Secretary of Transportation to collect information about civil aeronautics. The information is required to carry out FAA missions related to aviation safety, flight planning, and airport engineering. The data base is the basic source of data for private, state and Federal government aeronautical charts and publications.

Estimated Annual Burden Hours: 4,355 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 — 17th Street, NW., Washington, DC 20503, Attention: FAA Desk Officer.

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's 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.

Issued in Washington, DC, on August 23, 1999.

Steve Hopkins,

Manager, Standards and Information Division, APF–100.

[FR Doc. 99–23204 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Associate Administrator for Commercial Space Transportation; Notice of Availability of Draft Programmatic Environmental Impact Statement for Commercial Launch Vehicles

AGENCY: Federal Aviation Administration (FAA), Associate Administrator for Commercial Space Transportation (AST).

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA) the FAA is initiating a 45-day public review and comment period of a Programmatic Environmental Impact Statement (PEIS) for licensing commercial launch vehicles. The PEIS was prepared to (1) update a 1986 Programmatic Environmental Assessment for Commercial Launch Vehicles; (2) work in conjunction with other environmental documentation to support licensing of commercial launch vehicles (LVs); and (3) document compliance with NEPA requirements. In October 1998, AST's regulatory role in commercial space launch activities was enlarged to include licensing reentries and reentry sites; therefore, these are included in the PEIS. Copies of the document will be available through AST's Website (*http://ast.faa.gov/*) or by contacting Mr. Nikos Himaras at the address listed below.

DATES: The official comment period will begin with an Environmental Protection Agency Notice of Availability in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and the PEIS; or any relevant data and/or comments regarding the potential environmental impacts associated with licensing commercial launch vehicles, reentries and/or reentry sites may be addressed to Mr. Nikos Himaras, Office of the Associate Administrator for Commercial Space Transportation, Space System Development Division, Suite 331/AST–100, 800 Independence Avenue SW, Washington, DC 20591; email *nick.himaras@faa.gov;* or phone (202) 267–7926. Written comments regarding the PEIS should be sent to the same mailing address.

Additional Information

The PEIS considers the environmental impacts of the proposed action of licensing commercial LVs. Two alternatives are also considered in detail. First, the more environmentally-friendly propellant combination alternative, whereby AST would emphasize licensing LVs that produce fewer air emissions of concern. In addition, the No Action alternative is also examined, where AST would not issue licenses for commercial LV launches.

In analyzing the potential environmental impacts of the proposed action and two alternatives, the PEIS identifies six different types of ecosystems representing various potential commercial LV launch locations throughout the U.S. The environmental characteristics of the different ecosystems were used to describe the range of potential impacts of licensing commercial space launches.

Potential impacts of the proposed action were analyzed in three major categories, atmospheric impacts, noise impacts, and other environmental impacts. Potential environmental impacts to the atmosphere analyzed include ozone depletion and acid rain formation. Potential noise impacts considered include acoustic energy from launches and sonic booms during flights. Other potential environmental impacts discussed in the PEIS include impacts to the climate and atmosphere of the launch site, land resources, water resources, and biological resources. Potential accident scenarios and marine mammal strike probability were also considered.

Potential environmental impacts associated with the more environmentally-friendly propellant combinations alternative were analyzed in three major categories: atmospheric impacts, noise impacts, and other environmental impacts. The environmentally-friendly propellant alternative is defined as preferentially licensing rockets that are not solely propelled by solid rocket motors. This would reduce the total number of U.S. commercial launches projected from 1998 through 2009 from 436 to 134. The number of launches using liquid, liquid/solid, or hybrid propellant systems is assumed to remain unchanged under this alternative. Thus, the total number of commercial, AST-licensed launches in the U.S. (i.e., programmatic launches) would decrease substantially under this alternative. It is assumed that the decrease in U.S. commercial launches using only solid propellants would be compensated for by an increase in these launches elsewhere in the world.

Under the No Action alternative, the same number of worldwide commercial LV launches would take place. Chapter 701 requires AST to license a launch if the applicant complies and will continue to comply with chapter 701 and implementing regulations. 49 U.S.C. 70105. One of the purposes of chapter 701 is to provide that the Secretary of Transportation, and therefore AST, pursuant to delegations, oversees and coordinates the conduct of commercial launch and reentry, and issues and transfers licenses authorizing these activities. 40 U.S.C. 70104(b)(3). The agency may prevent a launch if it decides that the launch would jeopardize public health and safety, safety of property, or national security, or a foreign policy interest of the United States. 49 U.S.C. 70104(c). Not licensing any U.S. commercial launches would not be consistent with the purposes of chapter 701 in this context. In any event, the no action alternative suffers from other drawbacks as well. The U.S. space launch industry would be unable to continue LV launch operations regardless of their location because AST would not license U.S. launches. The no action alternative could negatively impact the national security and foreign policy interests of the U.S. Some U.S. government payloads have been launched by the U.S. commercial space launch industry. Therefore, if access to commercial LVs were not available, this overall limit in available capacity could, in a worst case scenario, impact the U.S. government's ability to launch needed payloads and negatively affect programs that rely on access to space. Additionally, under this alternative, parties that plan to launch from U.S. launch sites would be forced to find alternative launch sites outside the U.S., thereby potentially exposing sensitive technologies to countries with competing economic and security interests.

Potential cumulative impacts, including those to the atmosphere and noise, are also addressed in the PEIS. Irreversible and irretrievable commitment of resources, such as consumption of mineral resources, are addressed in the document.

Finally, the PEIS recommends a variety of mitigation measures to prevent or reduce environmental effects associated with the proposed action. Individual launch sites will monitor water quality, complete archaeological surveys, and survey biological species in the vicinity of the launch area. It is also assumed that all launch sites will comply with permit conditions. Other examples of suggested mitigation measures include: noise control actions, promoting the use of environmentally-friendly propellants, engaging in voluntary waste pollution prevention programs, developing a comprehensive environmental management system, working with interested parties to select the most culturally-friendly site, and implementing effective lighting policies to protect wildlife. Lastly, it should be noted that this PEIS is not site-specific. Any required site-specific environmental documentation would be developed as needed.

Date Issued: August 31, 1999.

Place Issued: Washington, DC.

Patricia G. Smith,

Associate Administrator for Commercial Space Transportation.

[FR Doc. 99–23201 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Cyril E. King Airport, St. Thomas, Virgin Islands, U.S.A.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application impose and use the revenue from a PFC at Cyril E. King Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990. (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 7, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gordon A. Finch, Executive Director of Virgin Islands Port Authority at the following address: Virgin Islands Port Authority, Cyril E. King Airport, PO Box 301707, St. Thomas, Virgin Islands, U.S.A. 00803–1707.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Virgin Islands Port Authority under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, P.E., Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, 407–812–6331 x30. The application may be reviewed in person at this time location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Cyril E. King Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 27, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by to Virgin Islands Port

Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 24, 1999.

The following is a brief overview of the application.

PFC Application No.: 99–06–C–00–STT.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 1999.

Proposed charge expiration date: December 1, 2001.

Total estimated PFC revenue: $3,000,000.

Brief description of proposed project(s): Design and Construct a New Air Traffic Control Tower at the Henry E. Rohlsen Airport, St. Croix, Virgin Islands, U.S.A.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Virgin Islands Port Authority.

Issued in Orlando, Florida, on August 27, 1999.

John W. Reynolds,

Acting Manager, Orlando Airports District Office Southern Region.

[FR Doc. 99–23205 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Naples Municipal Airport, Naples, Florida

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

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Naples Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 7, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Theodore D. Soliday, Executive Director of City of Naples Airport Authority at the following address: City of Naples Airport Authority, 160 Aviation Drive North, Naples, Florida 34104.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Naples Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Miguel A. Martinez, Program Manager, Orlando Airports District Office, 5950 Hazeltine National Drive, Citadel International, Suite 400, Orlando, Florida 32822, (407) 812–6331, extension 23. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Naples Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 25, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Naples Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 27, 1999.

The following is a brief overview of the application.

PFC Application No.: 99–02–C–00–APF.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1999.

Proposed charge expiration date: June 1, 2003.

Total estimated PFC revenue: $475,000.

Brief description of proposed project(s): Acquire three Commute-A-Walks; Commercial Airline Terminal Renovations

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Non-scheduled Air Carriers Filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Naples Airport Authority.

Issued in Orlando, Florida, on August 25, 1999.

John W. Reynolds, Jr.,

Acting Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 99–23206 Filed 9–3–99; 8:45 am]

BILLING CODE 4910–13–M

Reader Aids

Federal Register

Vol. 64, No. 172

Tuesday, September 7, 1999

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202–523–5227
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FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

47649–48074 1
48075–48242 2
48243–48526 3
48527–48700 7

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

7 CFR

246 48075
272 48246
273 48246
301 48245
924 48077
948 48079
955 48243
1000 47898
1001 47898
1002 47898
1004 47898
1005 47898
1006 47898
1007 47898
1012 47898
1013 47898
1030 47898
1032 47898
1033 47898
1036 47898
1040 47898
1044 47898
1046 47898
1049 47898
1050 47898
1064 47898
1065 47898
1068 47898
1076 47898
1079 47898
1106 ..... 47898, 48081
1124 47898
1126 47898
1131 47898
1134 47898
1135 47898
1137 47898
1138 47898
1139 47898
1924 48083
Proposed Rules:
210 48459
220 48459
225 48459
226 48459
246 48115
928 48115

9 CFR

93 48258
Proposed Rules:
3 48568

10 CFR

51 ..... 48496, 48507
72 48259
Proposed Rules:
31 48333
51 48117

12 CFR

201 48274

13 CFR

121 48275
123 48275

14 CFR

25 47649
39 ..... 47651, 47653, 47656, 47658, 47660, 47661, 48277, 48280, 48282, 48284, 48286
71 ..... 47663, 47664, 47665, 48085, 48086, 48088, 48089, 48527
73 ..... 47665, 48090
Proposed Rules:
39 ..... 47715, 48120, 48333
71 ..... 47718, 48123, 48459

15 CFR

742 47666
774 47666
Proposed Rules:
806 48568

16 CFR

Proposed Rules:
460 48024

19 CFR

12 48091
113 48528
151 48528
178 48528

21 CFR

5 47669
74 48288
175 48290
178 ..... 47669, 48291, 48292
510 48293
520 ..... 48295, 48543
522 ..... 48293, 48544
556 ..... 48295, 48544
558 48295
Proposed Rules:
2 47719
111 48336

23 CFR

Proposed Rules:
Ch. I 47741, 47744, 47746, 47749

24 CFR

Proposed Rules:
990 48572

26 CFR

1 48545
301 48547
Proposed Rules:
1 48572

28 CFR

Proposed Rules:
302 48336

29 CFR

697 48525

30 CFR

Proposed Rules:
901 48573

33 CFR

Proposed Rules:
117 47751
165 47752

34 CFR

379 48052

39 CFR

111 48092

Proposed Rules:
776 48124

40 CFR

52 ..... 47670, 47674, 48095, 48297, 48305
62 47680
180 ..... 47680, 47687, 47689, 48548
271 ..... 47692, 48099
439 48103

Proposed Rules:
52 ..... 47754, 48126, 48127, 48337
271 ..... 47755, 48135
403 47755
439 48103

44 CFR

206 47697

46 CFR

Proposed Rules:
10 48136
15 48136
90 48136
98 48136
125 48136
126 48136
127 48136
128 48136
129 48136
130 48136
131 48136
132 48136
133 48136
134 48136
170 48136
174 48136
175 48136

47 CFR

63 47699
73 ..... 47702, 48307
74 47702

Proposed Rules:
3 48337

48 CFR

235 48459
1806 48560
1813 48560
1815 48560
1835 48560
1852 48560
1872 48560

49 CFR

383 48104
384 48104
390 48510
393 47703
571 48562
575 48564
1000 47709
1001 47709
1004 47709

Proposed Rules:
390 48519

50 CFR

17 48307
21 48565
622 ..... 47711, 48324, 48326
635 ..... 47713, 48111, 48112
660 48113
679 ..... 47714, 48329, 48330, 48331, 48332

Proposed Rules:
17 47755
600 48337
648 48337
697 47756

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT SEPTEMBER 7, 1999

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Onions (Vidalia) grown in—
Georgia; published 9-3-99
EDUCATION DEPARTMENT
Postsecondary education:
Teacher Quality Enhancement Grants Program; published 8-6-99
ENVIRONMENTAL PROTECTION AGENCY
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
Illinois; published 7-7-99
Air quality implementation plans; approval and promulgation; various States:
New Mexico; published 7-8-99
Texas; published 7-8-99
Hazardous waste:
Solid waste disposal facilities that receive conditionally exempt small quantity generator hazardous waste; state permit program adequacy; published 6-8-99
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Avermectin B1 and its delta-8,9-isomer; published 9-7-99
FEDERAL COMMUNICATIONS COMMISSION
Digital television stations; table of assignments:
New York; published 8-23-99
Radio stations; table of assignments:
Illinois; published 8-2-99
Iowa; published 8-2-99
Kentucky; published 8-2-99
Maryland; published 8-5-99
Nebraska; published 8-2-99
Nevada; published 8-2-99
New York; published 8-2-99
Pennsylvania; published 8-2-99
South Dakota; published 8-2-99
Texas; published 8-5-99
Utah; published 8-5-99
West Virginia; published 8-2-99
Wyoming; published 8-2-99
HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Animal drugs, feeds, and related products:
New drug applications—
Chorionic gonadotropin; published 9-7-99
Oxytetracycline hydrochloride soluble powder; published 9-7-99
HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Skilled nursing facilities and home health agencies; cost limits exceptions; published 8-5-99
INTERIOR DEPARTMENT
Fish and Wildlife Service
Migratory bird permits:
Falconry standards—
Vermont and West Virginia; published 9-7-99
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Acquisition regulations:
Foreign proposals to NASA research announcements; implementation on no-exchange-of-funds basis; published 9-7-99
PERSONNEL MANAGEMENT OFFICE
Pay administration:
Lump-sum payments for accumulated and accrued annual leave for employees who separate from Federal service; published 7-8-99
TRANSPORTATION DEPARTMENT
Coast Guard
Vessel inspection alternatives:
Alternate Compliance Program; incorporations by reference; published 6-8-99
TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Allison Engine Company, Inc.; published 8-20-99
Bombardier; published 8-2-99
British Aerospace; published 8-2-99
Learjet; published 8-2-99
Saab; published 8-3-99
Class E airspace; published 8-13-99
TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Inflation-indexed debt instruments; published 9-7-99
Practice and procedure:
Organizational and individual performance; balanced measurement system; establishment; published 8-6-99
Procurement and administration:
Tax Refund Offset Program; revision; published 9-7-99

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Meats, prepared meats, and meat products; grading, certification, and standards:
Livestock and poultry products; voluntary, user-fee funded program to inspect and certify processing equipment, meeting; comments due by 9-14-99; published 7-16-99
AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Animal welfare:
Nonhuman primates; policy; comments due by 9-13-99; published 7-15-99
Exportation and importation of animals and animal products:
Hog cholera; importation and in-transit movement of fresh pork and pork products from Mexico into U.S.; comments due by 9-17-99; published 7-19-99
Pork and pork products; comments due by 9-13-99; published 7-14-99
User fees:
Veterinary services; biosecurity level three laboratory inspection; comments due by 9-13-99; published 7-14-99
AGRICULTURE DEPARTMENT
Agricultural Research Service
National Agricultural Library; loan and copying fees; comments due by 9-15-99; published 8-16-99
AGRICULTURE DEPARTMENT
Food and Nutrition Service
Child nutrition programs:
Women, infants, and children; special supplemental nutrition program—
Vendor management systems; mandatory selection criteria, limitation of vendors, training requirements, high-risk vendors identification criteria, etc.; comments due by 9-14-99; published 6-16-99
COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pollock; comments due by 9-15-99; published 9-3-99
Pollock; comments due by 9-15-99; published 9-3-99
Pollock; comments due by 9-15-99; published 9-3-99
Caribbean, Gulf, and South Atlantic fisheries—
Gulf of Mexico and South Atlantic coastal migratory pelagic resources; comments due by 9-16-99; published 7-27-99
Gulf of Mexico Fishery Management Council; meetings; comments due by 9-13-99; published 8-2-99
CONSUMER PRODUCT SAFETY COMMISSION
Dive sticks; comment and information request; comments due by 9-14-99; published 7-16-99
EDUCATION DEPARTMENT
Postsecondary education:
Federal Family Education and William D. Ford Federal Direct Loan Programs; comments due by 9-15-99; published 8-10-99
Federal Family Education Loan Program; comments

Digital flight data recorder requirements for Airbus airplanes; comment request; comments due by 9-17-99; published 8-24-99

Airworthiness directives:
- Aerospatiale; comments due by 9-17-99; published 8-3-99
- Airbus; comments due by 9-16-99; published 8-17-99
- Allison Engine Co.; comments due by 9-16-99; published 8-17-99
- BMW Rolls-Royce GmbH; comments due by 9-16-99; published 8-17-99
- Boeing; comments due by 9-17-99; published 8-3-99
- Bombardier; comments due by 9-13-99; published 8-12-99
- British Aerospace; comments due by 9-13-99; published 8-12-99
- Construcciones Aeronauticas, S.A.; comments due by 9-13-99; published 8-12-99
- Dassault; comments due by 9-13-99; published 8-12-99
- Israel Aircraft Industries, Ltd.; comments due by 9-16-99; published 8-17-99
- Pilatus Aircraft Ltd.; comments due by 9-13-99; published 8-13-99
- Pratt & Whitney; comments due by 9-15-99; published 8-16-99

Airworthiness standards:
- Special conditions—
  - Bombardier Model DHC-8-400 airplane; comments due by 9-13-99; published 8-12-99
  - Dassault Aviation Falcon Model 20-C5/-D5/-E5/-F5 airplanes; comments due by 9-13-99; published 8-12-99

Class D and Class E airspace; comments due by 9-17-99; published 8-18-99

Class E airspace; comments due by 9-13-99; published 7-30-99

Class E Airspace; comments due by 9-15-99; published 8-9-99

Class E airspace; comments due by 9-15-99; published 8-9-99

TRANSPORTATION DEPARTMENT

Federal Highway Administration

Motor carrier safety standards:
- Transportation Equity Act for 21st Century; implementation—
  - Safety fitness procedures; comments due by 9-15-99; published 8-16-99

TRANSPORTATION DEPARTMENT

Maritime Administration

Vessel financing assistance:
- Obligation guarantees; Title XI program—
  - Putting customers first; comments due by 9-13-99; published 8-13-99

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
- Solely for voting stock requirement in certain corporate reorganizations; comments due by 9-13-99; published 6-14-99

UNITED STATES INFORMATION AGENCY

Exchange visitor program:
- Reinstatement of J-1 exchange visitors who fail to maintain valid program status; monitoring requirements; comments due by 9-13-99; published 8-13-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 211/P.L. 106–48
To designate the Federal building and United States courthouse located at 920 West Riverside Avenue in Spokane, Washington, as the "Thomas S. Foley United States Courthouse", and the plaza at the south entrance of such building and courthouse as the "Walter F. Horan Plaza". (Aug. 17, 1999; 113 Stat. 230)

H.R. 1219/P.L. 106–49
Construction Industry Payment Protection Act of 1999 (Aug. 17, 1999; 113 Stat. 231)

H.R. 1568/P.L. 106–50
Veterans Entrepreneurship and Small Business Development Act of 1999 (Aug. 17, 1999; 113 Stat. 233)

H.R. 1664/P.L. 106–51
Emergency Steel Loan Guarantee and Emergency Oil and Gas Guaranteed Loan Act of 1999 (Aug. 17, 1999; 113 Stat. 252)

H.R. 2465/P.L. 106–52
Military Construction Appropriations Act, 2000 (Aug. 17, 1999; 113 Stat. 259)

S. 507/P.L. 106–53

Water Resources Development Act of 1999. (Aug. 17, 1999; 113 Stat. 269)

S. 606/P.L. 106–54

For the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical, LLC (successor to Kerr-McGee Chemical Corporation), and for other purposes. (Aug. 17, 1999; 113 Stat. 398)

S. 1546/P.L. 106–55

To amend the International Religious Freedom Act of 1998 to provide additional administrative authorities to the United States Commission on International Religious Freedom, and to make technical corrections to that Act, and for other purposes. (Aug. 17, 1999; 113 Stat. 401)

Last List August 18, 1999

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1999
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
700–1199	(869–038–00005–9)	27.00	Jan. 1, 1999
1200–End, 6 (6 Reserved)	(869–038–00006–7)	44.00	Jan. 1, 1999
7 Parts:			
1–26	(869–038–00007–5)	25.00	Jan. 1, 1999
27–52	(869–038–00008–3)	32.00	Jan. 1, 1999
53–209	(869–038–00009–1)	20.00	Jan. 1, 1999
210–299	(869–038–00010–5)	47.00	Jan. 1, 1999
300–399	(869–038–00011–3)	25.00	Jan. 1, 1999
400–699	(869–038–00012–1)	37.00	Jan. 1, 1999
700–899	(869–038–00013–0)	32.00	Jan. 1, 1999
900–999	(869–038–00014–8)	41.00	Jan. 1, 1999
1000–1199	(869–038–00015–6)	46.00	Jan. 1, 1999
1200–1599	(869–038–00016–4)	34.00	Jan. 1, 1999
1600–1899	(869–038–00017–2)	55.00	Jan. 1, 1999
1900–1939	(869–038–00018–1)	19.00	Jan. 1, 1999
1940–1949	(869–038–00019–9)	34.00	Jan. 1, 1999
1950–1999	(869–038–00020–2)	41.00	Jan. 1, 1999
2000–End	(869–038–00021–1)	27.00	Jan. 1, 1999
8	(869–038–00022–9)	36.00	Jan. 1, 1999
9 Parts:			
1–199	(869–038–00023–7)	42.00	Jan. 1, 1999
200–End	(869–038–00024–5)	37.00	Jan. 1, 1999
10 Parts:			
1–50	(869–038–00025–3)	42.00	Jan. 1, 1999
51–199	(869–038–00026–1)	34.00	Jan. 1, 1999
200–499	(869–038–00027–0)	33.00	Jan. 1, 1999
500–End	(869–038–00028–8)	43.00	Jan. 1, 1999
11	(869–038–0002–6)	20.00	Jan. 1, 1999
12 Parts:			
1–199	(869–038–00030–0)	17.00	Jan. 1, 1999
200–219	(869–038–00031–8)	20.00	Jan. 1, 1999
220–299	(869–038–00032–6)	40.00	Jan. 1, 1999
300–499	(869–038–00033–4)	25.00	Jan. 1, 1999
500–599	(869–038–00034–2)	24.00	Jan. 1, 1999
600–End	(869–038–00035–1)	45.00	Jan. 1, 1999
13	(869–038–00036–9)	25.00	Jan. 1, 1999
14 Parts:			
1–59	(869–038–00037–7)	50.00	Jan. 1, 1999
60–139	(869–038–00038–5)	42.00	Jan. 1, 1999
140–199	(869–038–00039–3)	17.00	Jan. 1, 1999
200–1199	(869–038–00040–7)	28.00	Jan. 1, 1999
1200–End	(869–038–00041–5)	24.00	Jan. 1, 1999
15 Parts:			
0–299	(869–038–00042–3)	25.00	Jan. 1, 1999
300–799	(869–038–00043–1)	36.00	Jan. 1, 1999
800–End	(869–038–00044–0)	24.00	Jan. 1, 1999
16 Parts:			
0–999	(869–038–00045–8)	32.00	Jan. 1, 1999
1000–End	(869–038–00046–6)	37.00	Jan. 1, 1999
17 Parts:			
1–199	(869–038–00048–2)	29.00	Apr. 1, 1999
200–239	(869–038–00049–1)	34.00	Apr. 1, 1999
240–End	(869–038–00050–4)	44.00	Apr. 1, 1999
18 Parts:			
1–399	(869–038–00051–2)	48.00	Apr. 1, 1999
400–End	(869–038–00052–1)	14.00	Apr. 1, 1999
19 Parts:			
1–140	(869–038–00053–9)	37.00	Apr. 1, 1999
141–199	(869–038–00054–7)	36.00	Apr. 1, 1999
200–End	(869–038–00055–5)	18.00	Apr. 1, 1999
20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
1–99	(869–038–00059–8)	24.00	Apr. 1, 1999
100–169	(869–038–00060–1)	28.00	Apr. 1, 1999
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
200–299	(869–038–00062–8)	11.00	Apr. 1, 1999
300–499	(869–038–00063–6)	50.00	Apr. 1, 1999
500–599	(869–038–00064–4)	28.00	Apr. 1, 1999
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
800–1299	(869–038–00066–8)	35.00	Apr. 1, 1999
1300–End	(869–038–00067–9)	14.00	Apr. 1, 1999
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
300–End	(869–038–00069–5)	32.00	Apr. 1, 1999
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–038–00072–5)	32.00	Apr. 1, 1999
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–038–00075–0)	18.00	Apr. 1, 1999
25	(869–038–00076–8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
§§ 1.61–1.169	(869–038–00078–4)	50.00	Apr. 1, 1999
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
§§ 1.301–1.400	(869–038–00080–6)	25.00	Apr. 1, 1999
§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441–1.500	(869–038–00082–2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[7] Apr. 1, 1999
§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
§§ 1.851–1.907	(869–038–00085–7)	40.00	Apr. 1, 1999
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–038–00090–3)	28.00	Apr. 1, 1999
40–49	(869–038–00091–1)	17.00	Apr. 1, 1999
50–299	(869–038–00092–0)	21.00	Apr. 1, 1999
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
500–599	(869–038–00094–6)	11.00	Apr. 1, 1999
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–038–00096–2)	53.00	Apr. 1, 1999

Title	Stock Number	Price	Revision Date
200–End	(869–038–00097–1)	17.00	Apr. 1, 1999
28 Parts:			
0–42	(869–034–00098–3)	36.00	July 1, 1998
43–end	(869–034–00099–1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–038–00101–2)	13.00	July 1, 1999
500–899	(869–034–00102–1)	40.00	[8] July 1, 1999
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
*1926	(869–034–00107–1)	30.00	July 1, 1999
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–038–00110–1)	30.00	July 1, 1999
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–038–00112–8)	21.00	July 1, 1999
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87–135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	30.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	14.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	30.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998
600–End	(869–034–00201–3)	33.00	Oct. 1, 1998

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869-038-00047-4)	48.00	Jan. 1, 1999
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

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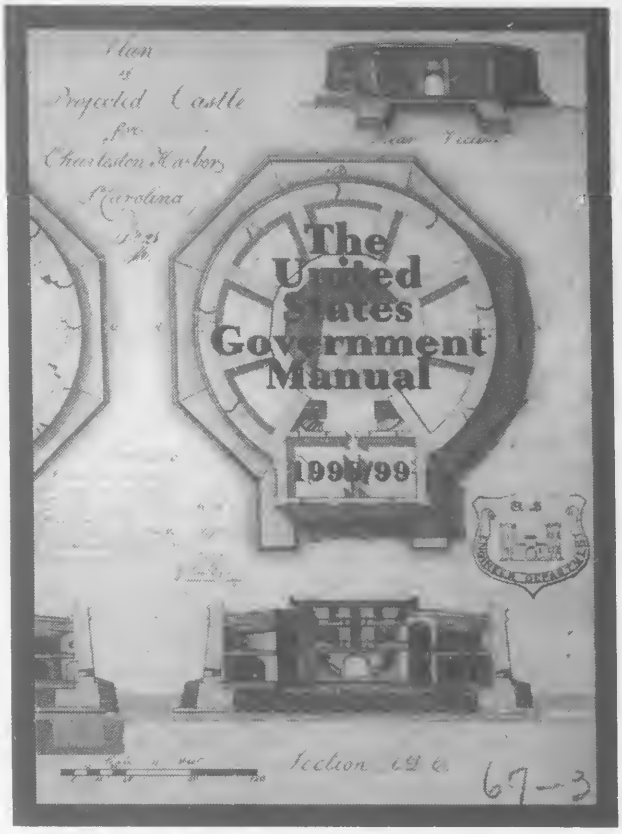

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