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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 60, 72, 73, 74, and 75

RIN 3150–AF32

Physical Protection for Spent Nuclear Fuel and High-Level Radioactive Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to clarify physical protection requirements for spent nuclear fuel and high-level radioactive waste stored at independent spent fuel storage installations (ISFSIs), monitored-retrievable storage (MRS) installations, and geologic repository operations areas (GROAs). These amendments codify standards for protecting spent fuel at the various storage sites licensed under the Commission's regulations.

EFFECTIVE DATE: November 12, 1998.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Dwyer, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–8110, e-mail PAD@NRC.GOV.

SUPPLEMENTARY INFORMATION:

I. Background

On August 15, 1995 (60 FR 42079), the Commission published for public comment a proposed rule that would clarify its regulations on the physical protection of spent nuclear fuel and high-level radioactive waste. The proposed regulation would have applied to spent fuel and high-level radioactive waste stored at ISFSIs, power reactors that have permanently ceased reactor operations, MRS installations, and the GROA. The proposed rule stated that the requirements for physically protecting this type of material lacked clarity in defining which regulations were to be applied at these sites. This resulted in a non-cohesive regulatory base. The proposed rule would provide a set of performance-based requirements, consistent with current programs that are currently licensed and implemented at sites under a unified policy for physical protection.

The proposed rule also indicated that the Commission was studying the need for specific protection against the malevolent use of a vehicle at sites affected by the rule (this is discussed further under the "Protection Goal" heading). The rule also proposed a conforming amendment to 10 CFR Part 60—to require material control and accounting (MC&A) measures at the GROA that would be identical to that required of ISFSIs under Part 72 . The proposed rule added a provision under 10 CFR Part 75 to clarify that if GROAs are subject to International Atomic Energy Agency (IAEA) safeguards, then NRC's nuclear material accounting and control regulations for implementing the "Agreement between the United States and the IAEA for the Application of Safeguards in the United States" apply. Finally, the Commission requested specific comment on five questions regarding impacts of the proposed regulation on licensees.

II. Summary and Analysis of Public Comments

The proposed rule was subject to a 90-day public comment period which ended on November 13, 1995. Twenty letters of comment were received. Sources for these comments included a nuclear industry group [the Nuclear Energy Institute (NEI)]; one national laboratory; fifteen utilities involved in nuclear activities; two Federal agencies [the Environmental Protection Agency (EPA) and the Department of Energy (DOE)]; and one citizen's group. Twelve letters of comment explicitly endorsed, either in total or in part, the views expressed by the NEI. Four letters of comment, in part, supported the general objectives of the proposed rulemaking. Correspondence received from EPA indicated no comment. The comments have been grouped under the following general topics:

1. Protection Goal.
2. Basis for Requirements.
3. Required Level of Physical Protection.
4. Backfit and Regulatory Analysis.
5. Rule Language Specifics.
6. GROAs.
7. Staff-Generated Amendments.
8. Summary of Responses to Commission's Specific Questions.

1. Protection Goal

Comment. Commenters noted that, although it was appropriate that a protection goal for spent fuel and high-level radioactive waste be defined, the protection goal needed to be less stringent than the codified design basis threat for radiological sabotage. It was further stated that a 10 CFR Part 100 release, the unofficial criterion for determining radiological sabotage of power reactors, would be extremely difficult to realize with respect to spent fuel and high-level radioactive waste. The citizen's group commented that any protection goal developed for spent fuel should also counter the malevolent use of an airborne vehicle.

Response. The NRC agrees that the establishment of a protection goal should be the first step in the development of any physical protection standards. One issue that may have caused confusion in the proposed rule is that the assumptions for determining "radiological sabotage" differ between Part 72, "Licensing Requirements for the Independent Storage of Spent Fuel and High-Level Radioactive Waste," and Part 73, "Physical Protection of Plants and Material." The differing assumptions are appropriate because "radiological sabotage," as used under Part 73, applies to a power reactor and implies the unofficial criterion of a Part 100 release for power reactors. "Radiological sabotage" as used under Part 72 applies to the storage of spent fuel and high-level radioactive waste and is based on the consequences of a design basis accident as defined under Part 72. Although the same term is used under both 10 CFR Parts; it is based on different assumptions and results in different levels of required protection. The Commission agrees that this is confusing and that "radiological sabotage," as used for operating reactors, is not an appropriate protection level for spent fuel and high-level radioactive waste. The Commission concludes that the protection goal is best characterized by the phrase: "protection against the loss of control of the facility that could be sufficient to cause radiation exposure exceeding the dose as described in 10

CFR 72.106." The final rule has been modified accordingly.

With regard to protection against the malevolent use of a land-based vehicle, NRC has determined, based on the opinions of expert study and a peer review of findings, that there is no compelling justification for requiring a vehicle barrier as perimeter protection for spent fuel and high-level radioactive waste stored under a Part 60 or Part 72 license. Inclusion of an airborne vehicle was assessed for possible inclusion into the protection goal for this rule. However, protection against this type of threat has not yet been determined appropriate at sites with greater potential consequences than spent fuel storage installations. Therefore, this type of requirement is not included within the protection goal for this final rule.

2. Basis for Requirements

Comment. Commenters frequently questioned the need for tying Part 72 requirements to Part 73. The commenters assumed that by involving Part 73 in the rulemaking, it was implied that the level of physical protection normally attributed to power reactors was being required. Phraseology used in the proposed requirements, such as using the term "protected area," (PA) tended to further foster this impression.

Response. The Commission disagrees that placing requirements under Part 73 implies any association with the physical protection requirements for power reactors. It is noted that Part 73 provides, in one consolidated Part, all of the requirements for those facilities needing physical protection. This is one reason why an explicit requirement for the protection of spent fuel and high-level radioactive waste is being added to Part 73. Part 73 includes more stringent requirements for power reactor and Category I fuel cycle facilities and much less stringent requirements for the protection of Category III facilities. With regard to use of the term "protected area," the Commission has determined that the term is correctly used in review of its definition under 10 CFR 73.2. Nonetheless, the Commission has reviewed the physical protection terminology found in the final rule to ensure that it does not imply a different level of physical protection than intended.

3. Level of Physical Protection Needed

Comment. Some commenters expressed the opinion that the level of physical protection described by the proposed amendments was unnecessary and overly burdensome. The industry group noted that what was truly needed was a level of physical protection comparable to "enhanced industrial security." Cited examples of this type of protection were: use of suitable fencing, locked access points, sufficient illumination, and periodic security patrols. Other commenters questioned the need for some of the redundancy that was included in the proposed rule. One citizen's group believed that physical protection measures should be more stringent than those described in the proposed rule.

Response. The Commission believes that the appropriate level of physical protection for spent fuel and high-level radioactive waste lies somewhere between industrial-grade security and the level that is required at operating power reactors. The Commission also notes that the nature of spent fuel and of its storage mechanisms offers unique advantages in protecting the material. This factor, along with revised consequence considerations, leads the Commission to conclude that physical protection at sites where spent fuel and high-level radioactive waste are stored under a 10 CFR Part 60 or 72 license can be more flexibly applied than previously proposed. Accordingly, the final rule has been revised to minimize redundancy and add flexibility. Specific changes are outlined in Section III, "Summary of Specific Changes Made to the Proposed Rule as a Result of Public Comment."

4. Backfit and Regulatory Analysis

Comment. NEI and a few licensees commented that the proposed regulation imposes a generic backfit as defined under 10 CFR 50.109 and 72.62. The NRC asserted in the proposed rule that the amendments merely codified and standardized physical protection measures that, through license amendment, were already in place at existing sites. Hence, it was concluded that no backfit was involved. Commenters further stated that, in terms of backfit requirements, the cost to implement the proposed rule was not justified based on the potential increase in protection that the rule would afford public health and safety.

Other commenters specifically responded to the Regulatory Analysis that accompanied the rule. These commenters expressed concern that certain provisions of the regulatory analysis could turn into de facto requirements.

Additionally, it was recommended that affected sites should be "grandfathered" under any final rulemaking. Accordingly, these sites would not be required to meet the provisions of the new physical protection rule because an adequate level of physical protection was already in place at the site, based on an NRC-approved physical protection plan.

Response. Under the proposed rule, the Commission stated that the backfit rule in 10 CFR 50.109 did not apply because the amendments did not impose any additional requirements on Part 50 licensees. Furthermore, the Commission notes that all references to Part 50 licensees are deleted in the final rule.

The Commission further stated that the backfitting requirements in 10 CFR 72.62 did not apply because the proposed amendments neither imposed nor modified procedures or organizations of ISFSIs licensed under Part 72. The Commission considers these statements true based on their assessment of the proposed regulation and its intended implementation. However, on further review, the backfit rule in 10 CFR 72.62 may be applicable to one facility which has only one isolation zone exterior to the perimeter barrier. The NRC staff has identified alternative measures currently in place that provide an equivalent level of physical protection. The staff does not intend to require this facility to establish an interior isolation zone. Thus, no backfit occurs due to the new rule. Because 10 CFR 72.62 does not cover reporting and recordkeeping requirements, the inclusion of 10 CFR 73.51 in 73.71 event reporting is not a backfit.

With respect to grandfathering existing sites, the Commission believes that implementation of this final rule at these sites presents no undue burden to affected licensees and provides a minimum level of physical protection to adequately protect the public health and safety. Accordingly, there is no need for a grandfathering provision and no change has been made in the final rule in response to this comment. The Commission notes that the Regulatory Analysis for the final rule has been revised to reflect changes made in response to public comment and to eliminate ambiguities.

5. Rule Language Specifics

Comment. A variety of comments were received regarding specific rule terminology. The suggestion was made that the term "protected area" be revised to "ISFSI controlled access area."

Response. As indicated previously in this notice, the use of the term "protected area," is consistent with its definition in 10 CFR 73.2. Furthermore, because it is the Commission's position

that a site where spent fuel and high-level radioactive waste is stored be surrounded by a fence, it is not considered adequate to call the enclosure a controlled access area (CAA). Under 10 CFR 73.2, the definition of a CAA requires only a demarcation of the area, not a fence.

Comment. Another commenter supported the Commission position that operating power reactor licensees that store spent fuel under a general license should have the option of using the physical protection measures of either 10 CFR 72.212(b)(5) or the proposed 10 CFR 73.51. The commenter also questioned whether the requirements of 10 CFR 72.182, 72.184, and 72.186 apply to a general license, in addition to Subpart K. A related question requested clarification on how general license holders were to notify NRC regarding which option they would exercise.

Response. The Commission notes that a licensee having a Part 50 license does not fall within the scope of the final rule. The Commission believes it is premature to bring these licensees under the provisions of the final rule because continued protection for spent fuel in storage pools at Part 50 sites is currently under study by the NRC.

Comment. One commenter requested clarification on the specific exclusion of an exemption for ISFSIs from the malevolent use of a vehicle threat within the design basis threat. The commenter indicated that it was not readily apparent and also a cumbersome process to determine the current exempt status of an ISFSI under present regulations.

Response. The Commission agrees and has revised the text of the rule to exclude reference to the design basis threat described under 10 CFR 73.1.

Comment. One commenter questioned whether the proposed rule would apply to a permanently shutdown power plant where spent fuel is stored and the plant is operating with a Part 50 possession-only license.

Response. A facility with a Part 50 license is not subject to the provisions of the final rule. This revision to the final rule has been made because the Commission believes it is premature to include these licensees within the scope of the rule because continued protection for spent fuel in storage pools at Part 50 sites is currently under study by the NRC.

Comment. A commenter requested clarification on the need for back-up power for physical protection-related equipment.

Response. The Commission believes that affected licensees should not be vulnerable to loss of offsite power. Thus, it is necessary for licensees to assure either continuous operation of required physical protection equipment during power failure or to demonstrate the ability to provide immediate compensation for such failures.

Comment. Required illumination levels, assessment techniques, required frequency of physical protection patrols, and searches before entry to the PA were all subjects of comment. A commenter suggested that illumination be provided only during periods of assessment and that the entire PA need not be illuminated to a level of 0.2 footcandle.

Response. The Commission agrees that illumination to a 0.2 footcandle level represents a large operating cost and may be difficult to achieve, given cask structure. This provision has been amended to more clearly indicate that, while illumination should be maintained during all periods of darkness, only an adequate level of illumination is required within the PA for the detection assessment means used. In addition, required performance capabilities regarding detection are clarified in the final rule by specifying the use of active intrusion detection equipment, as opposed to passive systems.

Comment. Some commenters noted that the frequency of patrols should coincide with watchmens' duty shift lengths, as opposed to once every eight hours as recommended in the proposed rule.

Response. The Commission does not agree that the frequency of patrols should coincide with duty shift lengths. However, the Commission agrees that some flexibility can be provided. Accordingly, this provision of the final rule is revised to require daily random patrols, only.

Comment. Licensees cited the burden of maintaining expensive and delicate explosives detection equipment to meet the proposed requirement for explosives searches conducted before entry to the PA.

Response. The Commission agrees. To clarify this issue, the Commission has revised the proposed rule to require only a visual search for explosives. Because pedestrian and vehicular traffic is not expected to be high volume at facilities affected by the rule, this type of search is not considered an undue burden to affected licensees. Furthermore, the amount of explosives that may cause a radiological release is not easily concealed.

Comment. Other commenters noted redundant records retention requirements in 10 CFR 72.180 and 10 CFR 73.51(c).

Response. This concern has been corrected in the final rule.

Comment. One commenter noted an apparent contradiction in the proposed regulation regarding use of deadly force in the protection of an ISFSI. The commenter had been advised by NRC staff that use of deadly force was not expected of members of the security organization at ISFSIs. The commenter reasoned that this was not consistent with the requirement to protect against radiological sabotage under the proposed rule.

Response. The issue involving the use of the term radiological sabotage has been resolved as discussed previously. Further, the Commission never intended that onsite physical protection personnel at an ISFSI would provide a response to a safeguards event other than calling for assistance from local law enforcement or other designated response force unless their timely response could not be ensured. The Commission also notes that 10 CFR 73.51 only calls for unarmed watchmen, not armed guards.

Comment. Commenters believe that the requirements for redundant alarm monitoring stations and specified staffing levels for the primary alarm station are overly burdensome and unnecessary.

Response. The Commission agrees that the requirement for redundant alarm stations is excessive. Regarding alarm monitoring, this provision is revised in the final rule to require, in the redundant location, only a summary indication that an alarm has been generated. This location need not necessarily be located onsite and could, for example, be a simple readout in a continually-staffed local law enforcement agency office. This is contingent on the assurance that communications with the local law enforcement agency or the designated response force can be maintained. Regarding required staffing levels of the primary alarm station, the Commission has deleted the specific requirement that the physical protection organization be comprised of at least two watchmen from the final rule. This deletion is contingent on the Commission's expectation that a human presence be maintained in the primary alarm station at all times. To achieve this, the Commission clarifies its position that the primary alarm station must be located within the PA, be bullet-resisting, and be configured such that activities within the station are not visible from outside the PA. The intent of these measures is to ensure that a single act cannot destroy the capability of an onsite watchman to call for

assistance. The final rule has been modified accordingly.

Comment. Finally, concerning the actual terminology and format of the proposed rule, commenters expressed support for its performance-based nature but rejected the set of provisions under 10 CFR 73.51(d) as being overly prescriptive.

Response. The Commission responds that the proposed regulation found in 10 CFR 73.51(d) is needed to provide additional clarity in meeting the performance capabilities in 10 CFR 73.51(b) and notes that many of the physical protection measures described under 10 CFR 73.51(d) are relaxed in the final rule and are less prescriptive in a number of cases.

6. GROA

Comment. Two comments were received from DOE on the amendments to Part 60 dealing with the geologic repository. The first commenter requested that it be emphasized in the "Statement of Considerations" for the final rule that the requirement for physical protection of GROAs be applicable only during their operational phases and not after closure.

Response. The Commission agrees with this observation and has clarified the exemption in the final rule to specifically exempt GROAs from the requirements of 10 CFR 73.51 after permanent closures.

Comment. The second commenter requested clarification on apparent conflicts in Part 60, "Disposal of High-Level Radioactive Waste in Geologic Repositories," regarding the level of detail required of physical protection plans during the different phases of the certification process.

Response. The Commission notes that NUREG 1619, "Standard Review Plan for Physical Protection Plans for the Independent Storage of Spent Fuel and High-Level Radioactive Waste," to be issued concurrently with the effective date of the final rule, will contain guidance in this area.

7. NRC Staff-Generated Amendments

Subsequent to publication of the proposed rule, a technical issue arose involving the cooling time of spent fuel as it relates to the degree of physical protection needed. Because a response to this issue continues to evolve within the NRC, the Commission believes it would be inappropriate to apply the provisions of the final rule at this time to a licensee holding a 10 CFR Part 50 license. Hence, licensees holding a 10 CFR Part 50 license are not within the scope of the final rule. Further, review indicated that there was some confusion pertaining to MC&A requirements for ISFSIs. Specifically, the NRC staff asked if ISFSIs were exempt from the requirements of 10 CFR 74.51 and, if not, why not. Specific MC&A requirements for ISFSIs are found under Part 72. After consideration of the issue, for clarification, the NRC staff has included an amendment to 10 CFR Part 74 that specifically exempts ISFSIs from 10 CFR 74.51 in the final rule.

8. Summary of Responses to Commission's Specific Questions

Question 1. Would the proposed amendments impose any significant additional costs for safeguards of currently stored spent nuclear fuel beyond what is now incurred for that purpose?

Summary of Responses. Five responses from nuclear utilities specifically addressed this issue. All indicated that the amendments, as proposed, would significantly increase costs. Manpower-intensive measures, such as the requirement to maintain a minimum of two watchmen per shift, were most often cited as creating an undue burden. One licensee estimated costs of $1 to $2 million to implement, and a continuing cost increase of 30–50 percent, annually, to physical protection operations.

NRC Response. Licensees holding a 10 CFR Part 50 license are no longer within the scope of this rule. The final rule has been revised to minimize redundancy and add flexibility to its implementation. There should be no significant increase in cost to current licensees.

Question 2. Is there reason to expect the costs to future licensees to differ substantially from those of current licensees?

Summary of Responses. Four responses from nuclear utilities specifically addressed this issue. Three utilities cited both higher current and annual operating costs. One utility noted that, to the extent that current licensees have been required to commit to the practices recommended in the proposed rule in initial licensing, there is no anticipated difference in cost.

NRC Response. Licensees holding a 10 CFR Part 50 license are no longer within the scope of this rule. The final rule has been amended to be more consistent with physical protection implemented at sites with currently approved physical protection plans. Hence, there should be no significant increase in costs to future licensees.

Question 3. Are the cost estimates in Table III of the Draft Regulatory Analysis representative of current industry experience? Are there significant costs that have not been included in the table?

Summary of Responses. Three responses from nuclear utilities specifically addressed this issue. One respondent indicated that the cost estimates in Table III of the "Draft Regulatory Analysis" are sufficiently broad to address industry experience. However, the inclusion of a continual surveillance system is not covered and the respondent suggested that it should be a separate line item. Another respondent indicated that the cost estimates appear to be comprehensive except they do not include construction and maintenance of physical protection office space, a records retention area, and alarm station(s).

NRC Response. The "Regulatory Analysis" has been revised to reflect public comment to include any omissions or changes made to the final rule.

Question 4. Are the costs justified by the benefits that would be afforded by the proposed amendments? Are there alternatives that would afford essentially the same benefits but be more cost effective?

Summary of Responses. Three responses from nuclear utilities specifically addressed this issue. All three indicated that the costs were not justified by the benefits derived from the proposed rule. One respondent stated that the individual measures of 10 CFR 73.51(d) have merit, but, when taken in aggregate, they are not necessary to protect public health and safety. This respondent further stated that redundancy in the proposed rule was not needed and the rulemaking should give affected licensees latitude in selecting and justifying the means of physical protection. Alternatives that were suggested involved the deletion of specific provisions of the proposed rule and also the restructuring of the rule so as to not group all ISFSIs under one set of physical protection criteria.

NRC Response. The Commission has revised the requirements of the proposed rule to eliminate unnecessary redundancies, add flexibility in implementation, and reduce manpower-intensive measures while maintaining an adequate level of physical protection.

Question 5. Are the proposed amendments to 10 CFR 73.51 appropriate for an MRS or geologic repository operated by DOE?

Summary of Response. NEI was the only respondent to this issue. NEI noted that NRC should be mindful of the evolving nature of MRS installations and the geologic repository in the development of physical protection regulations for these sites.

NRC Response. NRC staff continues to work closely with DOE staff in the development of the certification process for MRS installations and the GROA.

III. Summary of Specific Changes Made to the Proposed Rule as a Result of Public Comment

Major changes made to the proposed rule include:

(1) The incorporation of a protection goal, and

(2) Regarding required levels of physical protection, redundancies have been reduced, flexibility added, and manpower-for example—

- Regarding alarm monitoring, the redundant alarm station need only provide a summary indication at a continually staffed location;
- Redundant records retention has been eliminated;
- The required staffing level for the security organization has been eliminated and required siting and configuration of the primary alarm station clarified;
- Hand-held equipment searches for explosives are replaced with visual searches; and
- Illumination levels need only permit adequate assessment of the PA according to the assessment means used. Detection equipment must be active in nature.

As discussed previously, the final rule does not apply to a licensee holding a 10 CFR Part 50 license.

A section-by-section comparison of the proposed and final rules follows.

Part 60—Disposal of High-Level Radioactive Wastes in Geologic Repositories

1. Section 60.21, Content of application. This section is unchanged from the proposed rule.

2. Section 60.31, Construction authorization. This section is unchanged from the proposed rule.

3. Section 60.41, Standards for issuance of a license. This section is unchanged from the proposed rule.

4. Section 60.78, Material control and accounting records and reports. This section is unchanged from the proposed rule.

Part 72—Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste

5. Section 72.24, Contents of application: Technical information. This section is unchanged from the proposed rule. The term "radiological sabotage" is based on Part 72 assumptions and not a Part 100 radiological release.

6. Section 72.180, Physical security plan. This section is unchanged from the proposed rule except for changing the title to Physical Protection Plan to be consistent with 10 CFR Part 73.

7. Section 72.212, Conditions of general license issued under § 72.210. Revisions to this section have been deleted in their entirety.

Part 73—Physical Protection of Plants and Materials

8. Section 73.1, Purpose and Scope. Paragraph (b)(6) is unchanged from the proposed rule.

9. Section 73.50, Requirements for physical protection of licensed activities. This section remains unchanged from the proposed rule.

10. Section 73.51, Requirements for the physical protection of stored spent nuclear fuel and high-level radioactive waste. Paragraph (a), Applicability, has been revised to more precisely define the type of material affected by the rule and to eliminate 10 CFR Part 50 licensees from the provisions of the rule.

Paragraph (b)(3), General Performance Objectives, has been revised to read: "The physical protection system must be designed to protect against loss of control of the facility that could be sufficient to cause radiation exposure exceeding the dose as described in 10 CFR 72.106." This revised statement describes a more appropriate protection goal that is consistent with Part 72. It also allows for a physical protection system less stringent than required to protect against radiological sabotage at operating power reactors.

The introductory text of paragraph (d) has been revised to more clearly indicate the Commission's intent that alternative measures may also be available for meeting the provisions of (d). For example, several questions arose during final rule development as to whether the use of a hardened and protected alarm station sited at an adjacent operating power reactor would meet the intent of paragraph (d)(3) to have a hardened alarm station within the PA of the ISFSI. Staff considers this to be an acceptable alternative measure for meeting this provision of the final rule.

In paragraph (d)(1), the last sentence has been deleted because it is no longer necessary due to the revision cited in the previous paragraph above.

Paragraph (d)(2) has been revised to read: "Illumination must be sufficient to permit adequate assessment of unauthorized penetrations of or activities within the protected area." This revision has been made to permit flexibility in illumination levels.

Paragraph (d)(3) has been revised to read: "The perimeter of the protected area must be subject to continual surveillance and be protected by an active intrusion alarm system that is capable of detecting penetration through the isolation zone and that is monitored in a continually staffed primary alarm station located within the protected area, and in one additional continually staffed location to ensure that a single act cannot destroy the capability of the onsite watchman to call for assistance. The primary alarm station must be located within the protected area; have bullet-resisting walls, doors, ceiling, and floor; and the interior of the station must not be visible from outside the protected area. A timely means for assessment must also be provided. Regarding alarm monitoring, the redundant location need only provide a summary indication that an alarm has been generated." This clarifies the Commission's position that the necessary level of protection should ensure that a single act cannot destroy the capability of the onsite watchman to call for assistance.

Paragraph (d)(4) has been revised to reduce the frequency of patrol from "not less than once every 8 hours" to "daily random patrols" with additional discussion provided in guidance issued to support the rule.

Paragraph (d)(5) has been revised to read: "A security organization with written procedures must be established. The security organization must include sufficient personnel per shift to provide for monitoring of detection systems and the conduct of surveillance, assessment, access control, and communications to assure adequate response. Members of the security organization must be trained, equipped, qualified and requalified to perform assigned job duties in accordance with Appendix B to Part 73, I.A, (1) (a) and (b); B(1)(a); and the applicable portions of II." This change eliminates a required staffing level and describes qualification and training levels for watchmen, only, as the primary members of the security organization.

Paragraph (d)(6) has been changed to require "timely" response from the designated response forces. If timely response cannot be provided, additional protective measures may be required, to include use of armed guards.

Paragraph (d)(7) has been deleted.

Paragraph (d)(8) has been redesignated as paragraph (d)(7) and revised to read as follows: "A personnel identification system and a controlled lock system must be established and maintained to limit access to authorized individuals." This eliminates the unnecessary coupling of the identification system with the system

used for key and lock control as requested by commenters.

Paragraph (d)(9) has been deleted. If a person is authorized access to the PA, properly identified, and subject to search, there is no need for the individual to be escorted.

Paragraph (d)(10) has been redesignated as paragraph (d)(8). Regarding communications, the term "security organization" has been revised to "onsite security force members" to more precisely define communication channels.

Paragraph (d)(11) has been redesignated as paragraph (d)(9) and revised to read as follows: "All individuals, vehicles and hand-carried packages entering the protected area must be checked for proper authorization and visually searched for explosives before entry." This is permissible because the amount of explosives needed to cause a radiological release is not easily concealable.

Paragraph (d)(12) has been redesignated as paragraph (d)(10). The text of this paragraph is unchanged from the proposed rule.

Paragraph (d)(13) has been redesignated as paragraph (d)(11) and revised to read as follows: "All detection systems, surveillance/assessment systems, and supporting subsystems including illumination systems must be tamper-indicating with line supervision and be maintained in operable condition. Timely compensatory measures must be taken after discovery of inoperability to assure that the effectiveness of the physical protection system is not reduced."

Paragraph (d)(14) has been redesignated as paragraph (d)(12) and remains unchanged from the proposed rule.

Paragraph (d)(15) has been redesignated as paragraph (d)(13). This provision has been added to assure that duplication of records under § 72.180 is not required. Paragraph (d)(13)(ii) has been revised to read as follows: "Screening records of members of the security organization." Finally, the log of patrols must contain all patrols, not just routine patrols.

Paragraph (e) has been revised for clarity.

11. Section 73.71, Reporting of safeguards events, remains unchanged from the proposed rule.

Part 74—Material Control and Accounting of Special Nuclear Material

12. In Section 74.51, Nuclear material control and accounting for special nuclear material, paragraph (a) has been revised to read as follows: "General performance objectives. Each licensee who is authorized to possess five or more formula kilograms of strategic special nuclear material (SSNM) and to use such material at any site, other than a nuclear reactor licensed pursuant to Part 50 of this chapter, an irradiated fuel reprocessing plant, an operation involved with waste disposal, or an independent spent fuel storage facility licensed pursuant to Part 72 of this chapter, shall establish, implement, and maintain a Commission approved material control and accounting (MC&A) system that will achieve the following objectives: * * *" This paragraph specifically exempts Part 72 ISFSIs from the requirements of 10 CFR 74.51.

Part 75—Safeguards on Nuclear Material—Implementation of US/IAEA Agreement

13. Section 75.4, Definitions, remains unchanged from the proposed rule.

Criminal Penalties

NRC notes that these final amendments are issued under Sections 161b and i of the Atomic Energy Act of 1954, as amended. Therefore, violation of these regulations may subject a person to criminal sanctions under section 223 of the Atomic Energy Act.

Environmental Impact: Categorical Exclusion

The Commission has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(3)(i) and (iii). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget (OMB), approval numbers 3150–0002, 3150–0055, 3150–0123, and 3150–0132.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct and a person is not required to respond to, the information collection.

Regulatory Analysis

The Commission has prepared a "Final Regulatory Analysis" for this final rule. The final analysis examines the benefits and alternatives considered by the Commission. The "Final Regulatory Analysis" is available for inspection in the NRC Public Document room, 2120 L Street NW (Lower Level), Washington DC. Single copies of the analysis may be obtained from Priscilla A. Dwyer, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The "Final Regulatory Analysis" is available for viewing and downloading from the NRC's rulemaking bulletin board.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities. The final rule affects operators of ISFSIs and DOE as the operator of the MRS and GROA. The affected licensees do not fall within the scope of the definition of "small entities" set forth in Section 601(3) of the Regulatory Flexibility Act, or the NRC's size standards (10 CFR 2.810).

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, NRC has determined that this action is not a "major rule" and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Backfit Analysis

The Commission has determined that the backfit rule in 10 CFR 50.109 does not apply because this final rule does not impose new requirements on existing 10 CFR part 50 licensees. The backfit rule in 10 CFR 72.62 may be applicable to one facility which has only one isolation zone exterior to the perimeter barrier. However, the NRC staff has identified alternative measures currently in place that provide an equivalent level of physical protection. The staff does not intend to require this facility to establish an interior isolation zone. Thus, no backfit occurs due to the new rule. Because 10 CFR 72.62 does not cover reporting and recordkeeping requirements, the inclusion of 10 CFR 73.51 in 10 CFR 73.71 event reporting is not a backfit. Finally, the transfer of spent fuel from a reactor, licensed under 10 CFR part 50 and subject to 10 CFR 73.55 physical protection requirements, to an ISFSI licensed under 10 CFR part 72, and its associated physical protection provisions (e.g., 10 CFR 73.51) is not a backfit. A new license under 10 CFR art 72 is a matter of compliance with regulations. In all

cases, transition from 10 CFR 73.55 to 73.51 is a relaxation of requirements and not a backfit.

List of Subjects

10 CFR Part 60

Criminal penalties, High-level waste, Nuclear power plants and reactors, Nuclear materials, Reporting and recordkeeping requirements, Waste treatment and disposal.

10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

10 CFR Part 73

Criminal penalties, Hazardous materials transportation, Export, Import, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

10 CFR Part 74

Accounting, Criminal penalties, Hazardous materials transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 75

Criminal penalties, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553 the NRC is adopting the following amendments to 10 CFR parts 60, 72, 73, 74, and 75.

PART 60—DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES

1. The authority citation for part 60 continues to read as follows:

Authority: Secs. 51, 53, 62, 63, 65, 81, 161, 182, 183, 68 Stat. 929, 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2071, 2073, 2092, 2093, 2095, 2111, 2201, 2232, 2233); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846); secs. 10 and 14, Pub. L. 95–601, 92 Stat. 2951 (42 U.S.C. 2021a and 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 114, 121, Pub. L. 97–425, 96 Stat. 2213g, 2228, as amended (42 U.S.C. 10134, 10141) and Pub. L. 102–486, sec 2902, 106 Stat. 3123 (42 U.S.C. 5851).

2. In § 60.21, paragraphs (b)(3), (b)(4), and (c)(10) are revised to read as follows:

§ 60.21 Content of application.

* * * * *

(b) * * *

(3) A detailed plan to provide physical protection of high-level radioactive waste in accordance with § 73.51 of this chapter. This plan must include the design for physical protection, the licensee's safeguards contingency plan, and security organization personnel training and qualification plan. The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements.

(4) A description of the program to meet the requirements of § 60.78.

* * * * *

(c) * * *

(10) A description of the program to be used to maintain the records described in §§ 60.71 and 60.72.

* * * * *

3. In § 60.31, paragraph (b) is revised to read as follows:

§ 60.31 Construction authorization.

* * * * *

(b) *Common defense and security.* That there is reasonable assurance that the activities proposed in the application will not be inimical to the common defense and security.

* * * * *

4. In § 60.41, paragraph (c) is revised to read as follows:

§ 60.41 Standards for issuance of license.

* * * * *

(c) The issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public.

* * * * *

5. A new § 60.78 is added to read as follows:

§ 60.78 Material control and accounting records and reports.

DOE shall implement a program of material control and accounting (and accidental criticality reporting) that is the same as that specified in §§ 72.72, 72.74, 72.76, and 72.78 of this chapter.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

6. The authority citation for part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168 (c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

7. In § 72.24, paragraph (o) is revised to read as follows:

§ 72.24 Contents of application; Technical information.

* * * * *

(o) A description of the detailed security measures for physical protection, including design features and the plans required by subpart H. For an application from DOE for an ISFSI or MRS, DOE will provide a description of the physical protection plan for protection against radiological sabotage as required by subpart H.

* * * * *

8. Section 72.180 is revised to read as follows:

§ 72.180 Physical protection plan.

The licensee shall establish, maintain, and follow a detailed plan for physical protection as described in § 73.51 of this chapter. The licensee shall retain a copy of the current plan as a record until the Commission terminates the license for which the procedures were developed and, if any portion of the plan is superseded, retain the superseded material for 3 years after each change or until termination of the license. The plan must describe how the applicant will meet the requirements of § 73.51 of this chapter and provide physical protection during on-site transportation

to and from the proposed ISFSI or MRS and include within the plan the design for physical protection, the licensee's safeguards contingency plan, and the security organization personnel training and qualification plan. The plan must list tests, inspections, audits, and other means to be used to demonstrate compliance with such requirements.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

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

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 5841, 5844, 2297f).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C, 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96–295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99–399, 100 Stat. 876 (42 U.S.C. 2169).

10. In § 73.1, paragraph (b)(6) is revised to read as follows:

§ 73.1 Purpose and scope.

* * * * *

(b) * * *

(6) This part prescribes requirements for the physical protection of spent nuclear fuel and high-level radioactive waste stored in either an independent spent fuel storage installation (ISFSI) or a monitored retrievable storage (MRS) installation licensed under part 72 of this chapter, or stored at the geologic repository operations area licensed under part 60 of this chapter.

* * * * *

11. The introductory text of § 73.50 is revised to read as follows:

§ 73.50 Requirements for physical protection for licensed activities.

Each licensee who is not subject to § 73.51, but who possesses, uses, or stores formula quantities of strategic special nuclear material that are not readily separable from other radioactive material and which have total external radiation dose rates in excess of 100 rems per hour at a distance of 3 feet from any accessible surfaces without intervening shielding other than at a nuclear reactor facility licensed pursuant to part 50 of this chapter, shall comply with the following:

* * * * *

12. A new § 73.51 is added to read as follows:

§ 73.51 Requirements for the physical protection of stored spent nuclear fuel and high-level radioactive waste.

(a) *Applicability.* Notwithstanding the provisions of §§ 73.20, 73.50, or 73.67, the physical protection requirements of this section apply to each licensee that stores spent nuclear fuel and high-level radioactive waste pursuant to paragraphs (a)(1)(i), (ii), and (2) of this section. This includes—

(1) Spent nuclear fuel and high-level radioactive waste stored under a specific license issued pursuant to part 72 of this chapter:

(i) At an independent spent fuel storage installation (ISFSI) or

(ii) At a monitored retrievable storage (MRS) installation; or

(2) Spent nuclear fuel and high-level radioactive waste at a geologic repository operations area (GROA) licensed pursuant to part 60 of this chapter;

(b) *General performance objectives.* (1) Each licensee subject to this section shall establish and maintain a physical protection system with the objective of providing high assurance that activities involving spent nuclear fuel and high-level radioactive waste do not constitute an unreasonable risk to public health and safety.

(2) To meet the general objective of paragraph (b)(1) of this section, each licensee subject to this section shall meet the following performance capabilities.

(i) Store spent nuclear fuel and high-level radioactive waste only within a protected area;

(ii) Grant access to the protected area only to individuals who are authorized to enter the protected area;

(iii) Detect and assess unauthorized penetration of, or activities within, the protected area;

(iv) Provide timely communication to a designated response force whenever necessary; and

(v) Manage the physical protection organization in a manner that maintains its effectiveness.

(3) The physical protection system must be designed to protect against loss of control of the facility that could be sufficient to cause a radiation exposure exceeding the dose as described in § 72.106 of this chapter.

(c) *Plan retention.* Each licensee subject to this section shall retain a copy of the effective physical protection plan as a record for 3 years or until termination of the license for which procedures were developed.

(d) *Physical protection systems, components, and procedures.* A licensee shall comply with the following provisions as methods acceptable to NRC for meeting the performance capabilities of § 73.51(b)(2). The Commission may, on a specific basis and upon request or on its own initiative, authorize other alternative measures for the protection of spent fuel and high-level radioactive waste subject to the requirements of this section, if after evaluation of the specific alternative measures, it finds reasonable assurance of compliance with the performance capabilities of paragraph (b)(2) of this section.

(1) Spent nuclear fuel and high-level radioactive waste must be stored only within a protected area so that access to this material requires passage through or penetration of two physical barriers, one barrier at the perimeter of the protected area and one barrier offering substantial penetration resistance. The physical barrier at the perimeter of the protected area must be as defined in § 73.2. Isolation zones, typically 20 feet wide each, on both sides of this barrier, must be provided to facilitate assessment. The barrier offering substantial resistance to penetration may be provided by an approved storage cask or building walls such as those of a reactor or fuel storage building.

(2) Illumination must be sufficient to permit adequate assessment of unauthorized penetrations of or activities within the protected area.

(3) The perimeter of the protected area must be subject to continual surveillance and be protected by an active intrusion alarm system which is capable of detecting penetrations through the isolation zone and that is monitored in a continually staffed primary alarm station and in one additional continually staffed location. The primary alarm station must be located within the protected area; have bullet-resisting walls, doors, ceiling, and floor; and the interior of the station must not be visible from outside the protected area. A timely means for assessment of alarms must also be provided. Regarding alarm monitoring, the redundant location need only provide a summary indication that an alarm has been generated.

(4) The protected area must be monitored by daily random patrols.

(5) A security organization with written procedures must be established. The security organization must include sufficient personnel per shift to provide for monitoring of detection systems and the conduct of surveillance, assessment, access control, and communications to assure adequate response. Members of the security organization must be trained, equipped, qualified, and requalified to perform assigned job duties in accordance with appendix B to

part 73, sections I.A, (1) (a) and (b), B(1)(a), and the applicable portions of II.

(6) Documented liaison with a designated response force or local law enforcement agency (LLEA) must be established to permit timely response to unauthorized penetration or activities.

(7) A personnel identification system and a controlled lock system must be established and maintained to limit access to authorized individuals.

(8) Redundant communications capability must be provided between onsite security force members and designated response force or LLEA.

(9) All individuals, vehicles, and hand-carried packages entering the protected area must be checked for proper authorization and visually searched for explosives before entry.

(10) Written response procedures must be established and maintained for addressing unauthorized penetration of, or activities within, the protected area including Category 5, "Procedures," of appendix C to part 73. The licensee shall retain a copy of response procedures as a record for 3 years or until termination of the license for which the procedures were developed. Copies of superseded material must be retained for 3 years after each change or until termination of the license.

(11) All detection systems, surveillance/assessment systems, and supporting subsystems, including illumination systems, must be tamper-indicating with line supervision and be maintained in operable condition. Timely compensatory measures must be taken after discovery of inoperability, to assure that the effectiveness of the security system is not reduced.

(12) The physical protection program must be reviewed once every 24 months by individuals independent of both physical protection program management and personnel who have direct responsibility for implementation of the physical protection program. The physical protection program review must include an evaluation of the effectiveness of the physical protection system and a verification of the liaison established with the designated response force or LLEA.

(13) The following documentation must be retained as a record for 3 years after the record is made or until termination of the license. Duplicate records to those required under § 72.180 of part 72 and § 73.71 of this part need not be retained under the requirements of this section:

(i) A log of individuals granted access to the protected area;

(ii) Screening records of members of the security organization;

(iii) A log of all patrols;

(iv) A record of each alarm received, identifying the type of alarm, location, date and time when received, and disposition of the alarm; and

(v) The physical protection program review reports.

(e) A licensee that operates a GROA is exempt from the requirements of this section for that GROA after permanent closure of the GROA.

13. In § 73.71, paragraphs (b)(1) and (c) are revised to read as follows:

§ 73.71 Reporting of safeguards events.

* * * * *

(b)(1) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or 73.67 shall notify the NRC Operations Center within 1 hour of discovery of the safeguards events described in paragraph I(a)(1) of appendix G to this part. Licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing strategic special nuclear material and subject to § 73.67(d) shall notify the NRC Operations Center within 1 hour after discovery of the safeguards events described in paragraphs I(a)(2), (a)(3), (b), and (c) of appendix G to this part. Licensees subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, or 73.60 shall notify the NRC Operations Center within 1 hour after discovery of the safeguards events described in paragraph I(d) of appendix G to this part.

* * * * *

(c) Each licensee subject to the provisions of §§ 73.20, 73.37, 73.50, 73.51, 73.55, 73.60, or each licensee possessing SSNM and subject to the provisions of § 73.67(d) shall maintain a current log and record the safeguards events described in paragraphs II (a) and (b) of appendix G to this part within 24 hours of discovery by a licensee employee or member of the licensee's contract security organization. The licensee shall retain the log of events recorded under this section as a record for 3 years after the last entry is made in each log or until termination of the license.

* * * * *

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

14. The authority citation for part 74 continues to read as follows:

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282, 2297f); secs. 201, as amended 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

15. In § 74.51, the introductory text of paragraph (a) is revised to read as follows:

§ 74.51 Nuclear material control and accounting for special nuclear material.

(a) *General performance objectives.* Each licensee who is authorized to possess five or more formula kilograms of strategic special nuclear material (SSNM) and to use such material at any site, other than a nuclear reactor licensed pursuant to part 50 of this chapter, an irradiated fuel reprocessing plant, an operation involved with waste disposal, or an independent spent fuel storage facility licensed pursuant to part 72 of this chapter shall establish, implement, and maintain a Commission-approved material control and accounting (MC&A) system that will achieve the following objectives:

* * * * *

PART 75—SAFEGUARDS ON NUCLEAR MATERIAL—IMPLEMENTATION OF US/IAEA AGREEMENT

16. The authority citation for part 75 continues to read as follows:

Authority: Secs. 53, 63, 103, 104, 122, 161, 68 Stat. 930, 932, 936, 937, 939, 948, as amended (42 U.S.C. 2073, 2093, 2133, 2134, 2152, 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Section 75.4 also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161).

17. In § 75.4, paragraph (k)(5) is revised to read as follows:

§ 75.4 Definitions.

* * * * *

(k) * * *

(5) Any location where the possession of more than 1 effective kilogram of nuclear material is licensed pursuant to parts 40, 60, or 70 of this chapter, or pursuant to an agreement state license.

* * * * *

Dated at Rockville, Maryland, this 11th day of May, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–12978 Filed 5–14–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–48–AD; Amendment 39–10524; AD 98–10–12]

RIN 2120–AA64

Airworthiness Directives; REVO, Incorporated Models Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, and Lake LA–4–200 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all REVO, Incorporated (REVO) Models Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, and Lake LA–4–200 airplanes. This action requires measuring for a clearance of 5/32 of an inch between the attachment fitting and the horizontal stabilizer rear beam, and a clearance of 1/16 of an inch between the attachment fitting and the stabilizer skin. If either area does not meet these minimum measurements, this AD requires removing the affected horizontal tail half from the airplane and inspecting the attachment fitting for any evidence of fretting, cracking, or corrosion. If cracks, fretting, or corrosion are present, the attachment fitting must be replaced with a new fitting, and the stabilizer skin must be trimmed to provide a positive clearance for the fitting. This action is prompted by an incident report of an airplane losing control during flight after the attachment fitting to the horizontal stabilizer fractured. The actions specified by this AD are intended to prevent fatigue cracks to the horizontal and vertical stabilizer attachment fitting, which could result in loss of control of the airplane.

DATES: Effective June 8, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 8, 1998.

Comments for inclusion in the Rules Docket must be received on or before July 8, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–48–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from REVO, Incorporated, 50 Airport Road, Laconia Airport, Laconia, New Hampshire, 03246. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–48–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Noll, Aerospace Engineer, FAA, Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone: (781) 238–7160; facsimile: (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA recently received a report of loss of control on a REVO, Incorporated Lake LA–4 series airplane during flight. The report indicated that during climb-out following take-off, the pilot heard a loud bang, and the airplane pitched over into a vertical dive, with loss of elevator control. During the pilot's efforts to regain control, another loud bang was heard and sufficient control was regained to manage a safe landing. Further investigation of the incident and inspection of the subject airplane revealed interference between the horizontal stabilizer skin and the attachment fitting. This interference caused fretting, which led to fatigue cracking and associated corrosion of the attachment fitting. The fracture of the attachment fitting resulted in loss of directional control of the airplane.

Relevant Service Information

REVO has issued Service Bulletin B–78, dated April 3, 1998, applicable to Models Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, and Lake LA–4–200 airplanes, which specifies procedures for:

—Measuring the gap between the horizontal stabilizer rear beam and the attachment fitting for a clearance of 5/32 of an inch,

—If the gap between the stabilizer rear beam and the attachment fitting is less than 5/32-inch, removing the fitting and visually inspect for cracks, fretting, or corrosion,

—If cracks, fretting, or corrosion is present, replacing the attachment fitting with a new fitting,

—Measuring the gap between the attachment fitting and the horizontal stabilizer skin for a clearance of 1/16 of an inch, and

—If the clearance between the horizontal stabilizer skin and the attachment fitting is less than 1/16 of an inch, but the other measurement is at or greater than 5/32 of an inch, trimming the stabilizer skin to provide at least 1/16 of an inch clearance.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant service information, the FAA has determined that AD action should be taken to prevent fatigue cracks in the horizontal stabilizer attachment fitting, which if not detected and corrected, could result in loss of control of the airplane.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other REVO Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, Lake LA–4–200 airplanes of the same type design, this AD requires measuring the gap between the horizontal stabilizer rear beam and the attachment fitting for correct clearance, and measuring the gap between the attachment fitting and the horizontal stabilizer skin for correct clearance. If the gap between the stabilizer rear beam and the attachment fitting is not the correct clearance, the action requires removing the horizontal tail half to gain access to the fitting, and visually inspecting for cracks, fretting, or corrosion. If cracks, fretting, or corrosion are present, the action requires replacing the attachment fitting with a new fitting. If the clearance between the horizontal stabilizer skin and the attachment fitting is not the correct clearance, but the other measurement is correct, the action requires trimming the stabilizer skin to provide acceptable clearance. The actions are to be done in accordance with the instructions in REVO Service Bulletin B–78, dated April 3, 1998.

Determination of the Effective Date of the AD

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons

are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–CE–48–AD." The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

98–10–12 Revo, Incorporated: Amendment 39–10524; Docket No. 98–CE–48–AD.

Applicability: Models Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, and Lake LA–4–200 airplanes, all serial numbers, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within the next 25 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent fatigue cracks in the horizontal and vertical stabilizer attachment fitting, which could result in loss of control of the airplane, accomplish the following:

(a) Measure the gap between the horizontal stabilizer rear beam and the attachment fitting for a clearance of 5/32 of an inch in accordance with the PROCEDURE section in REVO Service Bulletin B–78, dated April 3, 1998.

(1) If the gap between the stabilizer rear beam and the attachment fitting is less than 5/32-inch, prior to further flight, remove the fitting and visually inspect or inspect using a dye penetrant method for cracks, fretting, or corrosion in accordance with the INSPECTION AND REPAIR section in REVO Service Bulletin B–78, dated April 3, 1998.

(2) If any crack, fretting, or corrosion is present, prior to further flight, replace the attachment fitting with a new fitting in accordance with the INSPECTION AND REPAIR section in REVO Service Bulletin B–78, dated April 3, 1998.

(b) Measure the gap between the attachment fitting and the horizontal stabilizer skin for a clearance of 1/16 of an inch in accordance with the PROCEDURE section in REVO Service Bulletin B–78, dated April 3, 1998.

(c) If the clearance between the horizontal stabilizer skin and the attachment fitting is less than 1/16 of an inch, but the measurement required in paragraph (a) of this AD is at or greater than 5/32 of an inch, prior to further flight, trim the stabilizer skin to provide at least 1/16-inch clearance in accordance with the PROCEDURE section in REVO Service Bulletin B–78, dated April 3, 1998.

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

(e) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Boston ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston ACO.

(f) The inspection, modification, and replacement required by this AD shall be done in accordance with REVO Service Bulletin B–78, dated April 3, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from REVO, Incorporated, 50 Airport Road, Laconia Airport, Laconia, New Hampshire, 03246. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(g) This amendment becomes effective on June 8, 1998.

Issued in Kansas City, Missouri, on May 1, 1998.

Michael Gallagher,

Manager, Small Aircraft Directorate, Aircraft Certification Service.

[FR Doc. 98–12625 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–257–AD; Amendment 39–10526; AD 98–10–14]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that currently requires various types of inspections to detect fatigue cracking of certain areas of the rear spar caps, web, skin, and certain fastener holes; and repair or modification, if necessary. This amendment reduces the repetitive inspection interval for all of the currently required inspections, except for the X-ray inspections. It also revises the terminating modification provision for some airplanes. This amendment is prompted by reports of cracks found during the currently required inspections, which had progressed to lengths greater than predicted. The actions specified by this AD are intended to ensure that fatigue cracking is detected and corrected in a timely manner before it can lead to rupture of the rear spar, extensive damage to the wing, and spillage of fuel.

DATES: Effective June 19, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 19, 1998.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of May 15, 1996 (61 FR 16379, April 15, 1996).

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, ACE–116A, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Atlanta Aircraft Certification Office, Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6067; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 96–07–13, amendment 39–9563 (61 FR 16379, April 15, 1996), which is applicable to all Lockheed Model L–1011–385 series airplanes, was published in the Federal Register on April 1, 1997 (62 FR 15429). That action proposed to supersede AD 96–07–13 to continue to require various types of inspections to detect fatigue cracking of certain areas of the rear spar caps, web, skin, and certain fastener holes; and repair or modification, if necessary. That action also proposed to reduce the repetitive inspection interval for all of the currently required inspections, except for the X-ray inspections. Additionally, it proposed to revise the terminating modification provision for some airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Three commenters support the proposed rule.

Require Compliance With New Service Information

One commenter, the manufacturer, requests that the proposal require compliance with Revision 6 of Lockheed L–1011 Service Bulletin 093–57–203, rather than Revision 5, as cited in the proposal. The manufacturer advises that Revision 6 of the service bulletin contains significant clarification and simplifies the proposed inspections, which will enable operators to perform the proposed inspections in a correct and efficient manner. Further, the manufacturer notes that Revision 6 of the service bulletin contains no additional procedures to be accomplished, and therefore would pose no additional burden on any operator.

The FAA concurs. Since the issuance of the proposed rule, the FAA has reviewed and approved Lockheed L–1011 Service Bulletin 093–57–203, Revision 6, dated August 18, 1997. The FAA finds that accomplishment of certain requirements of this AD in accordance with Revision 5 of the subject service bulletin adequately addresses the unsafe condition. Therefore, the FAA has revised the final rule to require compliance in accordance with Revision 6 of the service bulletin.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 236 Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 118 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 96–07–13 will take approximately 64 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. [This work hour estimate assumes that X-ray inspections are done of both upper and lower caps, and that the ultrasonic inspection indicates cracking in each of five bolt holes (per wing), thus requiring subsequent bolt hole eddy current inspections to confirm crack findings. The estimate includes inspections of both wings.] Based on these figures, the cost impact on U.S. operators of the proposed inspection requirements of this AD is estimated to be $453,120, or $3,840 per airplane, per inspection cycle. This new AD action adds no new costs to affected operators.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9563 (61 FR 16379, April 15, 1996), and by adding a new airworthiness directive (AD), amendment 39–10526, to read as follows:

98–10–14 Lockheed: Amendment 39–10526. Docket 96–NM–257–AD. Supersedes AD 96–07–13, Amendment 39–9563.

Applicability: All Model L–1011–385–1, L–1011–385–3, L–1011–385–1–14, and L–1011–385–1–15 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent rupture of the rear spar due to the problems associated with fatigue cracking, which could result in extensive damage to the wing and fuel spillage, accomplish the following:

Note 2: The inspections and follow-on actions described in Lockheed L–1011 Service Bulletin 093–57–203 include:

—repetitive X-ray (radiographic) inspections;
—repetitive eddy current surface scan inspections;
—bolt hole eddy current inspections at various locations;
—repetitive ultrasonic inspections in conjunction with eddy current surface scan inspections (for certain airplanes); and
—repetitive low frequency eddy current ring probe inspections.

(a) *For airplanes on which the inspections and follow-on actions required by AD 96–07–13, amendment 39–9563, have been initiated prior to the effective date of this AD:* At the times specified in Table I of Lockheed L–1011 Service Bulletin 093–57–203, Revision 4, dated March 27, 1995; or within 6 months after May 15, 1996 (the effective date of AD 96–07–13, amendment 39–9563), whichever occurs later: Perform initial inspections and various follow-on actions to detect cracking in the areas specified in, at the times indicated in, and in accordance with Lockheed L–1011 Service Bulletin 093–57–203, Revision 4, dated March 27, 1995, or Revision 6, dated August 18, 1997.

(1) If no cracking is found, repeat the repetitive inspections and follow-on actions in accordance with Table I of the Lockheed service bulletin. As of the effective date of this AD, these actions shall be repeated at the times specified only in accordance with Table 1 of Revision 6 of the Lockheed service bulletin. To avoid unnecessary grounding of airplanes that are currently being inspected in accordance with the schedule specified in Revision 4 of the Lockheed service bulletin, the next repeated action that is to be accomplished after the effective date of this AD shall be performed at the time specified in Table I of Revision 6 of the Lockheed service bulletin, or within 30 days after the effective date of this AD, whichever occurs later.

(2) If any finding of cracking is confirmed, prior to further flight, accomplish paragraph (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this AD.

(i) Repair the cracked area in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Thereafter, perform the repetitive inspections and follow-on actions as specified in paragraph (a)(1) of this AD.

(ii) Repair the rear spar upper and lower caps between IWS 228 and 346 in accordance with the Lockheed Model L–1011 Structural Repair Manual. Thereafter, perform the repetitive inspections and follow-on actions required by paragraph (a)(1) of this AD. Or

(iii) Modify the rear spar upper and lower caps and web in accordance with the applicable Lockheed service bulletin listed in this paragraph, below. Accomplishment of the modification constitutes terminating action for the requirements of this AD.

—Lockheed L–1011 Service Bulletin 093–57–184, Revision 7, dated December 6, 1994, as amended by Change Notification 093–57–184, R7–CN1, dated August 22, 1995; or
—Lockheed L–1011 Service Bulletin 093–57–196, Revision 6, dated December 6, 1994, as amended by Change Notification 093–57–196, R6–CN1, dated August 22, 1995; or
—Lockheed L–1011 Service Bulletin 093–57–215, dated April 11, 1996. Modification of Model L–1011–385–3 airplanes must be accomplished in accordance with this service bulletin.

Note 3: Accomplishment of the modification specified in paragraph (a)(2)(iii) of this AD prior to the effective date of this AD in accordance with the following Lockheed service bulletins, as applicable, is considered to be in compliance with this paragraph:

- Lockheed L–1011 Service Bulletin 093–57–184, Revision 6, dated October 28, 1991;
- Lockheed L–1011 Service Bulletin 093–57–184, Revision 7, dated December 6, 1994;
- Lockheed L–1011 Service Bulletin 093–57–196, Revision 5, dated October 28, 1991; or
- Lockheed L–1011 Service Bulletin 093–57–196, Revision 6, dated December 6, 1994.

(b) *For airplanes on which the inspections and follow-on actions required by AD 96–07–13, amendment 39–9563, have not been initiated prior to the effective date of this AD:* At the times specified in Table I of Lockheed L–1011 Service Bulletin 093–57–203, Revision 6, dated August 18, 1997; or within 30 days after the effective date of this AD; whichever occurs later: Perform initial inspections and various follow-on actions to detect cracking in the areas specified in, at the times indicated in, and in accordance with Lockheed L–1011 Service Bulletin 093–57–203, Revision 6, dated August 18, 1997.

(1) If no cracking is found: Repeat the inspections and follow-on actions in accordance with the times specified in Table I of Revision 6 of the Lockheed service bulletin.

(2) If any finding of cracking is confirmed: Prior to further flight, accomplish either paragraph (b)(2)(i), (b)(2)(ii), or (b)(2)(iii) of this AD.

(i) Repair the cracked area in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Thereafter, perform the repetitive inspections and follow-on actions at the times specified in Table 1 of Revision 6 of the Lockheed service bulletin. Or

(ii) Repair the rear spar upper and lower caps between IWS 228 and 346 in accordance with the Lockheed Model L–1011 Structural Repair Manual. Thereafter, perform the repetitive inspections and follow-on actions at the times specified in Table 1 of Revision 6 of the Lockheed service bulletin. Or

(iii) Modify the rear spar upper and lower caps and web in accordance with paragraph (a)(2)(iii) of this AD.

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

comments and then send it to the Manager, Atlanta ACO.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

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

(e) Except as provided by paragraph (a)(2)(i), (a)(2)(ii), (b)(2)(i), and (b)(2)(ii) of this AD, the actions shall be done in accordance with Lockheed L–1011 Service Bulletin 093–57–203, Revision 4, dated March 27, 1995; Lockheed L–1011 Service Bulletin 093–57–203, Revision 6, dated August 18, 1997; Lockheed L–1011 Service Bulletin 093–57–184, Revision 7, dated December 6, 1994, as amended by Change Notification 093–57–184, R7-CN1, dated August 22, 1995; Lockheed L–1011 Service Bulletin 093–57–196, Revision 6, dated December 6, 1994, as amended by Change Notification 093–57–196, R6–CN1, dated August 22, 1995; and Lockheed L–1011 Service Bulletin 093–57–215, dated April 11, 1996.

(1) The incorporation by reference of Lockheed L–1011 Service Bulletin 093–57–203, Revision 6, dated August 18, 1997; and Lockheed L–1011 Service Bulletin 093–57–215, dated April 11, 1996; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Lockheed L–1011 Service Bulletin 093–57–184, Revision 7, dated December 6, 1994, as amended by Change Notification 093–57–184, R7–CN1, dated August 22, 1995; Lockheed L–1011 Service Bulletin 093–57–196, Revision 6, dated December 6, 1994, as amended by Change Notification 093–57–196, R6–CN1, dated August 22, 1995; and Lockheed L–1011 Service Bulletin 093–57–203, Revision 4, dated March 27, 1995, was approved previously by the Director of the Federal Register as of May 15, 1996 (61 FR 16379, April 15, 1996).

(3) Copies may be obtained from Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Systems and Flight Test Branch, ACE–116A, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on June 19, 1998.

Issued in Renton, Washington, on May 7, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service.

[FR Doc. 98–12808 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–54–AD; Amendment 39–10525; AD 98–10–13]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires modification of the aft avionic fan. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent failure of the aft avionic fan due to inadequate cooling airflow through the fan housing, which could result in failure of the avionics equipment.

DATES: Effective June 19, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 19, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on March 12, 1998 (63 FR 12042). That action proposed to require modification of the aft avionic fan.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 50 airplanes of U.S. registry will be affected by this AD, that it will take approximately 9 work hours per airplane to accomplish the required modification, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $27,000, or $540 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–10–13 Dornier Luftfahrt GMBH: Amendment 39–10525. Docket 98–NM–54–AD.

Applicability: Model 328–100 series airplanes, as listed in Dornier Service Bulletin SB–328–21–215, Revision 1, dated June 12, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the aft avionic fan due to inadequate cooling airflow through the fan housing, which could result in failure of the avionics equipment, accomplish the following:

(a) Within 3 months after the effective date of this AD, modify the aft avionic fan in accordance with Dornier Service Bulletin SB–328–21–215, Revision 1, dated June 12, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

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

(d) The modification shall be done in accordance with Dornier Service Bulletin SB–328–21–215, Revision 1, dated June 12, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directive 97–158, dated June 19, 1997.

(e) This amendment becomes effective on June 19, 1998.

Issued in Renton, Washington, on May 7, 1998.

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–12806 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AGL–62]

Establishment of Class E Airspace; Martin, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Martin, SD. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 32 has been developed for Martin Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates controlled airspace with a 6.7-mile radius for Martin Municipal Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Martin, SD (63 FR 12044). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Martin, SD, to accommodate aircraft executing the proposed GPS Rwy 32 SIAP at Martin Municipal Airport by creating controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Martin, SD [New]

Martin Municipal Airport, SD
(Lat. 43°09'56" N., long. 101°42'46" W.)

That airspace extending upward from 700 feet above the surface within a 6.7 mile radius of the Martin Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12996 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–12]

Establishment of Class E Airspace; Nauvoo, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Nauvoo, IL. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 27 has been developed for Cedar Ridge Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates controlled airspace with a 6.3-mile radius for Cedar Ridge Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR Part 71 to modify Class E airspace at Nauvoo, IL (63 FR 12053). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment objecting to the proposal was received. An official at the Iowa State Penitentiary, Fort Madison, IA, stated "We have no objection to the proposal, except aircraft should not be allowed in the airspace above the Iowa State penitentiary, 31 Ave. G, Fort Madison, Iowa 52627. This is a maximum security prison at the east end of the City of Fort Madison." The Cedar Ridge Airport is approximately five (5) nautical miles south-southwest of the penitentiary. The penitentiary actually underlies the Class E airspace for Fort Madison, IA, which is excluded from the Class E airspace at Nauvoo, IL. The ground track of the proposed GPS Rwy 27 SIAP, including the missed approach ground track, keeps aircraft executing this SIAP a minimum of five (5) nautical miles south-southwest of the penitentiary. This airspace proposal does not affect the controlled airspace above the penitentiary.

Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Nauvco, IL, to accommodate aircraft executing the proposed GPS Rwy 27 SIAP at Cedar Ridge Airport by creating controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Nauvoo, IL [New]

Nauvoo, Cedar Ridge Airport, IL
(Lat. 40°32'35" N., long. 91°19'51" W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Cedar Ridge Airport, excluding the airspace within the Keokuk, IA, and Fort Madison, IA, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12993 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–10]

Modification of Class E Airspace; Casey, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Casey, IL. A Nondirectional Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 4, Amendment 7, has been developed for Casey Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Casey, IL (63 FR 12051). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Casey, IL, to accommodate aircraft executing the proposed NDB Rwy 4 SIAP, Amendment 7, at Casey Municipal Airport by increasing the radius of the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Casey, IL [Revised]

Casey Municipal Airport, IL

(Lat. 39°18'08" N, long. 88°00'12" W.

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Casey Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12992 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–14]

Establishment of Class E Airspace; Lakeview, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Lakeview, MI. A VHF Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 09, has been developed for Lakeview Airport-Griffith Field. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates controlled airspace with a 7.6-mile radius for this airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Lakeview, MI (63 FR 12054). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Lakeview, MI, to accommodate aircraft executing the proposed VOR Rwy 09 SIAP at Lakeview Airport-Griffith Field by creating controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MI E5 Lakeview, MI [New]

Lakeview Airport-Griffith Field, MI
(Lat. 43°27'08" N., long. 85°16'00" W.)

That airspace extending upward from 700 feet above the surface within an 7.6-mile radius of the Lakeview Airport-Griffith Field.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12991 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–8]

Modification of Class E Airspace; Portland, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E Airspace at Portland, IN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 27, has been developed for Portland Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action adds an extension to the east for the existing controlled airspace Portland Municipal Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Portland, IN (63 FR 12049). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Portland, IN, to accommodate aircraft executing the proposed GPS Rwy 27 SIAP at Portland Municipal Airport by adding an eastern extension to the existing controlled airspace at the airport. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation) (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IN E5 Portland, IN [Revised]

Portland Municipal Airport, IN
(lat. 40°27′03″ N., long. 84°59′24″ W.)

That airspace extending upward from 700 feet above the surface within a 7.0-mile radius of the Portland Municipal Airport; and within 4.0 miles either side of the 092° bearing from the airport, extending from the 7.0-mile radius to 10.5 miles east of the airport.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12990 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–5]

Modification of Class E Airspace; Milwaukee, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Milwaukee, WI. A VHF Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 32, has been developed for John H. Batten Field. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. In addition, a review of the Class E airspace at Milwaukee, WI, determined a modification was required to accommodate rising terrain for diverse departures at General Mitchell International Airport, Waukesha County Airport, and Lawrence J. Timmerman Airport. This action increases the radii of the existing controlled airspace for these airports.

EFFECTIVE DATES: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Milwaukee, WI (63 FR 12045). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

The amendment to 14 CFR part 71 modifies Class E airspace at Milwaukee, WI, to accommodate aircraft executing the proposed VOR Rwy 32 SIAP, at John H. Batten Field by increasing the radius of the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. In addition, the radii of the controlled airspace for General Mitchell International Airport, Waukesha County Airport, and Lawrence J. Timmerman Airport will be increased because of an airspace review conducted for these airports. The areas will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Milwaukee, WI [Revised]

General Mitchell International Airport, WI
(Lat. 42°56′49″ N., long. 87°53′49″ W.)
John H. Batten Field, WI
(Lat. 42°45′40″ N., long. 87°48′50″ W.)
Waukesha County Airport, WI
(Lat. 43°02′28″ N., long. 88°14′13″ W.§
Lawrence J. Timmerman Airport, WI
(Lat. 43°06′39″ N., long. 88°02′04″ W.)

That airspace extending upward from 700 feet above the surface within an 8.4-mile radius of the General Mitchell International Airport, and within an 8.1-mile radius of John H. Batten Field, and within a 7.5-mile radius of the Waukesha County Airport, and within an 8.9-mile radius of the Lawrence J. Timmerman Airport.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12989 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–7]

Establishment of Class E Airspace; Wautoma, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Wautoma, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 31, has been developed for Wautoma Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates controlled airspace with a radius of 8.3 miles for the Wautoma Municipal Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Wautoma, WI (63 FR 12048). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 to FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establish Class E airspace at Wautoma, WI to accommodate aircraft executing the proposed GPS Rwy 31 SIAP, at Wautoma Municipal Airport by creating controlled airspace at the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Wautoma, WI [New]

Wautoma Municipal Airport, WI
(lat. 44°02'30" N., long. 89°18'16" W.)

That airspace extending upward from 700 feet above the surface within a 8.3-mile radius of the Wautoma Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12988 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–9]

Modification of Class E Airspace; Millersburg, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Millersburg, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 27, has been developed for Holmes County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace Holmes County Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Millersburg, OH (63 FR 12050). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Millersburg, OH, to accommodate aircraft executing the proposed GPS Rwy 27 SIAP at Holmes County Airport by increasing the radius of the existing controlled airspace for the airport. The area will be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 as 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 7400.9E, Airspace Designations Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH E5 Millersburg, OH [Revised]

Millersburg, Holmes County Airport, OH
(lat. 40°32'14"N., long. 81°57'16"W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the Holmes County Airport; and within 2.7 miles either side of the 085° bearing from the airport, extending from the 6.7-mile radius to 10.5 miles east of the airport, and within 1.8 miles either side of the 236° bearing from the airport, extending from the 6.7-mile radius to 8.0 miles southwest of the airport.

* * * * *

Issued in Des Plaines, Illinois May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12987 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–11]

Modification of Class E Airspace; Chicago, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Chicago, IL. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 08, has been developed for Lake In The Hills Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the area of the existing controlled airspace for Lake In The Hills Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Chicago, IL (63 FR 12052). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Chicago, IL, to accommodate aircraft executing the proposed GPS Rwy 08 SIAP, at Lake In The Hills Airport by increasing the area of the existing controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL IL E5 Chicago, IL [Revised]

That airspace extending upward from 700 feet above the surface within an area bounded by a line beginning at
lat. 42°29′00″ N, long. 88°30′00″ W, to lat. 42°29′00″ N, long. 88°03′00″ W, to lat. 42°40′00″ N, long. 88°03′00″ W, to lat. 42°43′00″ N, long. 87°57′00″ W, to lat. 42°30′00″ N, long. 87°35′00″ W, to lat. 41°55′00″ N, long. 87°19′00″ W, to lat. 41°38′00″ N, long. 87°19′00″ W, to lat. 41°33′00″ N, long. 87°10′00″ W, to lat. 41°28′00″ N, long. 87°14′00″ W, to lat. 41°22′00″ N, long. 87°40′00″ W, to lat. 41°22′00″ N, long. 88°30′00″ W, to lat. 41°41′00″ N, long. 88°30′00″ W, to lat. 41°53′00″ N, long. 88°50′00″ W, to lat. 42°01′00″ N, long. 88°50′00″ W, to lat. 42°01′00″ N, long. 88°40′00″ W, to lat. 42°15′00″ N, long. 88°40′00″ W, to lat. 42°15′00″ N, long. 88°30′00″ W, to lat. 42°21′00″ N, long. 88°30′00″ W, to the point of beginning.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12986 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–15]

Establishment of Class E Airspace; Watford City, ND, and modification of Class E Airspace, Williston, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Watford City, ND, and modifies Class E airspace at Williston, ND. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 30 has been developed for Watford City Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL), and controlled airspace extending upward from 1200 AGL, is needed to contain aircraft executing the approach. This action creates controlled airspace with a radius of 7.4 miles for the Watford City Airport, and enlarges the controlled airspace at Williston, ND, to the southeast to accommodate the approach.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, March 12, 1998, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Watford City, ND and modify Class E airspace at Williston, ND (63 FR 12055). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL and upward from 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Watford City, ND, and to modifies Class E airspace at Williston, ND, to accommodate aircraft executing the proposed GPS Rwy 30 SIAP at Watford City Municipal Airport by creating controlled airspace at the airport and modifying controlled airspace nearby the airport. Controlled airspace extending upward from 700 to 1200 feet AGL, and controlled airspace extending upward from 1200 feet AGL, is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 7400.9E, Airspace Designations and Reporting Points,

dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL ND E5 Watford City, ND [New]

Watford City Airport, ND
(Lat. 47°47'45" N., long. 103°15'13" W.)

That airspace extending upward from 700 feet above the surface within a 7.4-mile radius of the Watford City Airport.

* * * * *

AGL ND E5 Williston, ND [Revised]

Williston, Sloulin Field International Airport, ND
(Lat. 48°10'41" N., long. 103°38'33" W.)
Williston VORTAC
(Lat. 48°15'12" N., long. 103°45'02" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Sloulin Field International Airport, and within 4.0 miles each side of the Williston VORTAC 317° radial, extending from the 6.6-mile radius to 12.7 miles northwest of the airport, and within 4.0 miles each side of the 124° bearing from the airport, extending from the 6.6-mile radius to 13.4 miles southeast of the airport, and within 3.8 miles each side of the Williston VORTAC 135° radial extending from the 6.6-mile radius to 12.3 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 21.8-mile radius of the Williston VORTAC extending from the Williston VORTAC 172° radial clockwise to V–430, and within 39.2 miles miles of the Williston VORTAC extending from V–430 clockwise to V–71, and within a 60.0-mile radius of the Williston VORTAC extending from V–71 clockwise to the 172° radial of the Williston VORTAC, excluding those portions within Federal Airways.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12985 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–01]

Amendment to Class E Airspace; Wrightstown, NJ

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Wrightstown, NJ. The development of a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Allaire Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS Runway (RWY) 14 SIAP to Allaire Airport.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On January 27, 1998, a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace at Wrightstown, NJ, was published in the **Federal Register** (63 FR 11853). The development of a GPS RWY 14 SIAP for Allaire Airport requires the amendment of the Class E airspace at Wrightstown, NJ. The proposal was to amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operations and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporate by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends Class E airspace at Wrightstown, NJ, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS RWY 14 SIAP to Allaire Airport.

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. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have 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—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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 Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA NJ E5 Wrightstown, NJ [Revised]

Lakewood Airport, NJ
(lat. 40°04'00"N., long. 74°10'40"W.)
McGuire AFB, NJ
(lat. 40°00'56"N., long. 74°35'37"W.)
Trenton-Robbinsville airport and within 5.7 miles north and 4 miles south of the Robbinsville Airport, NJ
(lat. 40°12'50"N., long. 74°36'07"W.)
Allaire Airport, NJ
(lat. 40°11'13"N., long. 74°07'30"W.)
Robert J. Miller Airpark, NJ
(lat. 39°55'39"N., long. 74°17'33"W.)
Flying W Airport, NJ
(lat. 39°56'00"N., long. 74°48'24"W.)
Lakehurst (Navy) TACAN
(lat. 40°02'13"N., long. 74°21'12"W.)
Colts Neck VOR/DME
(lat. 40°18'42"N., long. 74°09'36"W.)

Coyle VORTAC
(lat. 39°49'02"N., long. 74°25'54"W.)
Robbinsville VORTAC
(lat. 40°12'08"N., long. 74°29'43"W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Lakewood Airport and within a 10.5-mile radius of McGuire AFB and within a 11.3-mile radius of the Lakehurst (Navy) TACAN extending clockwise from the Lakehurst (Navy) Tacan 310° radial to the 148° radial and within 4.4 miles each side of the Coyle VORTAC 031° radial extending from the VORTAC to 11.3 miles northeast and within 2.6 miles southwest and 4.4 miles northeast of the Lakehurst (Navy) TACAN 148° radial extending from the TACAN to 12.2 miles southeast and within a 6.4-mile radius of Trenton-Robbinsville Airport and within 5.7 miles north and 4 miles south of the Robbinsville VORTAC 278° and 098° radials extending from 4.8 miles west to 10 miles east of the VORTAC and within a 6.7-mile radius of Allaire Airport and within 1.8 miles each side of the Colts Neck VOR/DME 167° radial extending from the Allaire Airport 6.7-mile radius to the VOR/DME and within 4 miles each side of the 312° bearing from the Allaire airport extending from the 6.7-mile radius of the airport to 9 miles northwest of the airport and within 9.5-mile radius of Flying W Airport and within a 6.5-mile radius of Robert J. Miller Air Park and within 1.3 miles each side of the Coyle VORTAC 044° radial extending from the 6.5-mile radius of Robert J. Miller Air Park to the VORTAC, excluding the portions that coincide with the Berlin, NJ, Princeton, NJ, Vincentown, NJ, Old Bridge, NJ, Matawan, NJ, and North Philadelphia, PA Class E airspace areas.

* * * * *

Issued in Jamacia, New York on May 6, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–12984 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–04]

Amendment to Class E Airspace; Downingtown, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace at Shannon Memorial Field Airport, Downingtown, PA. All instrument procedures for the airport have been cancelled. The need for Class E airspace no longer exists for Instrument Flight Rules (IFR) operations at the airport. This action will result in the airspace reverting to Class G airspace.

EFFECTIVE DATE: 0901 UTC, August 13, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On April 3, 1998, a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) to remove the Class E airspace extending upward from 700 feet above the surface at Shannon Memorial Field Airport, Downingtown, PA, was published in the **Federal Register** (63 FR 16451).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be removed subsequently from the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) removes Class E airspace at Downingtown, PA. The need for controlled airspace extending from 700 feet AGL at the Shannon Memorial Field Airport no longer exists. This area will be removed from the appropriate aeronautical charts.

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

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

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

§ 71.1 [Amended]

The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA PA E5, Downingtown, PA [Removed]

* * * * *

Issued in Jamaica, New York, on May 6, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–12983 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 98N–0283]

Food Labeling; Nutrient Content Claims—General Provisions

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations for nutrient content claims by revoking the requirement that the label or labeling of a food for which a nutrient content claim is made must bear a "referral statement" that directs consumers' attention to the panel on the label or labeling that bears nutrition

information. FDA is taking this action in response to section 305 of the Food and Drug Administration Modernization Act of 1997 (FDAMA). FDA also is making some technical conforming amendments to the regulations.

DATES: The regulation is effective May 15, 1998, except for the amendment to § 101.13(q)(3)(ii) (21 CFR 101.13(q)(3)(ii)) that will be effective March 23, 1999. Written comments by June 15, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm.1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Hilario R. Duncan, Center for Food Safety and Applied Nutrition (HFS–24), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–8281.

SUPPLEMENTARY INFORMATION: On November 21, 1997, President Clinton signed into law FDAMA (Pub. L. 105–115). Section 305 of FDAMA amended section 403(r)(2)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)(2)(B)) to eliminate the requirement that referral statements be made on food labeling whenever nutrient content claims are made. Section 305 of FDAMA retained the requirement that there be disclosure statements when FDA determines that the food for which the nutrient content claim is to be made contains a nutrient at a level that increases to persons in the general population the risk of a disease or health related condition that is diet related, although section 305 of FDAMA changed how the disclosure statement should be worded. The act as amended by the Nutrition Labeling and Education Act of 1990 had previously mandated referral statements whenever nutrient content claims were made on the label or labeling of a food product.

FDA is revising § 101.13 (21 CFR 101.13) to reflect the statutory changes of FDAMA. The agency is doing so by removing the introductory text of § 101.13(g), which requires referral statements whenever nutrient content claims are made; by redesignating and amending § 103.13(g)(1), (g)(2), and (g)(3), which specify the size and placement of referral statements, as paragraphs (h)(4)(i), (h)(4)(ii), and (h)(4)(iii), respectively, to specify the size and placement of disclosure statements; by revising § 101.13(h)(1) to make the disclosure statement language conform to that required by Section 305 of FDAMA; and by making other conforming revisions.

Under amended section 403(r)(2)(B) of the act, and the conforming rule set forth in this document, affected food products are misbranded unless they contain the disclosure statement "See nutrition information for ____ content." This disclosure statement replaces the disclosure statement currently set forth in § 101.13(h), which states: "See [appropriate panel] for information about [nutrient requiring disclosure] and other nutrients." FDA does not believe that Congress intended that food producers immediately relabel their products to include the new disclosure statement, which would create an unnecessary economic burden on them, especially as the old disclosure statement is not false or misleading. Accordingly, FDA advises that, with respect to food products that are subject to the requirements of § 101.13(h), the agency intends at this time to exercise its enforcement discretion by refraining from taking regulatory action against them solely because they continue to use the disclosure statement "See [appropriate panel] for information about [nutrient requiring disclosure] and other nutrients." FDA encourages food producers to revise the labeling for their products that fall under the requirements of § 101.13(h) to include the new disclosure statement "See nutrition information for ____ content" as soon as possible but no later than the next scheduled redesign of the product's label or labeling. Finally, FDA advises that food producers may continue to use the referral statement previously required under § 101.13(g). Because that referral statement is not false or misleading, such a referral statement would not be prohibited under the act.

FDA is also taking this opportunity to correct an error that occurs in the current issue of the Code of Federal Regulations (CFR) in § 101.13(g)(1). In the **Federal Register** of August 12, 1997 (62 FR 43071), in the document entitled "Food and Cosmetic Labeling; Revocation of Certain Regulations," FDA revoked § 101.2(c)(1), (c)(2), and (c)(3) (21 CFR 101.2(c)(1), (c)(2), and (c)(3)) and redesignated remaining paragraphs (c)(4) and (c)(5) as paragraphs (c)(1) and (c)(2), respectively. In making this change, however, FDA inadvertently neglected to change the citation to § 101.2(c)(5) that appeared in § 101.13(g)(1). FDA is correcting that inadvertent omission in § 101.13. Additionally, in a document entitled "Food Labeling; General Requirements for Health Claims for Food" (see 58 FR 2478 at 2534, January 6, 1993), FDA inadvertently used the term "referral" instead of the preferred term "disclosure", in issuing § 101.14(e)(3) (21 CFR 101.14(e)(3)). FDA is correcting that error in § 101.14(e)(3).

The agency has determined under 21 CFR 25.30(k) 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.

FDA has examined the economic implications of this final rule under Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select the regulatory approach that maximizes net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). Executive Order 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including having an annual effect on the economy of $100 million or adversely affecting in a material way a sector of the economy, competition, or jobs, or if it raises novel legal or policy issues. The agency finds that this final rule is not a significant rule as defined by Executive Order 12866. No analysis is required for this rule under the Regulatory Flexibility Act (5 U.S.C. 601–612) because, as discussed herein, FDA is issuing it without publishing a general notice of proposed rulemaking.

Finally, in accordance with the Small Business Regulatory Enforcement Fairness Act, the administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget has determined that this final rule is not a major rule for the purpose of congressional review.

FDA concludes that the labeling requirements in this final rule are not subject to review by the Office of Management and Budget because they do not constitute a "collection of information" under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Rather, the labeling statements are "public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public" (5 CFR 1320.3(c)(2)).

Because FDA is revoking a requirement (referral statements for all nutrient content claims) that was issued under legal authority that has been eliminated by Congress in FDAMA, FDA finds, for good cause, that notice and public procedure on this rule are unnecessary and, therefore, are not required under 5 U.S.C. 553.

Nonetheless, under 21 CFR 10.40(e), FDA is providing an opportunity for comment on whether the regulations set forth below should be modified or revoked.

Interested persons may, on or before June 15, 1998, submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday though Friday.

List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 101 is amended as follows:

PART 101—FOOD LABELING

1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371.

2. Section 101.13 is amended by removing the introductory text of paragraph (g); by redesignating paragraphs (g)(1), (g)(2), and (g)(3) as paragraphs (h)(4)(i), (h)(4)(ii), and (h)(4)(iii), respectively and reserving paragraph (g); by removing the introductory text of paragraph (h); by revising paragraph (h)(1) and newly redesignated paragraphs (h)(4)(i), (h)(4)(ii), and (h)(4)(iii); in paragraphs (j)(2)(ii) and (p)(2) by removing the phrase "with paragraph (g)(1)" and adding in its place the phrase "with paragraph (h)(4)(i)"; by revising the second sentence in paragraph (q)(2) and the last sentence in paragraph (q)(3)(ii); in paragraph (q)(5)(i) by removing the phrase "in paragraphs (g) and (h)" and adding in its place the phrase "in paragraph (h)"; and in paragraph (q)(6) by removing the phrase "of paragraphs (b), (g), and (h)" and adding in its place the phrase "of paragraphs (b) and (h)" to read as follows:

§ 101.13 Nutrient content claims—general principles.

* * * * *

(h)(1) If a food, except a meal product as defined in § 101.13(l), a main dish product as defined in § 101.13(m), or food intended specifically for use by infants and children less than 2 years of age, contains more than 13.0 g of fat, 4.0 g of saturated fat, 60 milligrams (mg) of cholesterol, or 480 mg of sodium per reference amount customarily consumed, per labeled serving, or, for a food with a reference amount customarily consumed of 30 g or less or 2 tablespoons or less, per 50 g (for dehydrated foods that must be reconstituted before typical consumption with water or a diluent containing an insignificant amount, as defined in § 101.9(f)(1), of all nutrients per reference amount customarily consumed, the per 50 g criterion refers to the "as prepared" form), then that food must bear a statement disclosing that the nutrient exceeding the specified level is present in the food as follows: "See nutrition information for ____ content" with the blank filled in with the identity of the nutrient exceeding the specified level, e.g., "See nutrition information for fat content."

* * * * *

(4) * * *

(i) The disclosure statement "See nutrition information for ____ content" shall be in easily legible boldface print or type, in distinct contrast to other printed or graphic matter, and in a size no less than that required by § 101.105(i) for the net quantity of contents statement, except where the size of the claim is less than two times the required size of the net quantity of contents statement, in which case the disclosure statement shall be no less than one-half the size of the claim but no smaller than one-sixteenth of an inch, unless the package complies with § 101.2(c)(2), in which case the disclosure statement may be in type of not less than one thirty-second of an inch.

(ii) The disclosure statement shall be immediately adjacent to the nutrient content claim and may have no intervening material other than, if applicable, other information in the statement of identity or any other information that is required to be presented with the claim under this section (e.g., see paragraph (j)(2) of this section) or under a regulation in subpart D of this part (e.g., see §§ 101.54 and 101.62). If the nutrient content claim appears on more than one panel of the label, the disclosure statement shall be adjacent to the claim on each panel except for the panel that bears the nutrition information where it may be omitted.

(iii) If a single panel of a food label or labeling contains multiple nutrient content claims or a single claim repeated several times, a single disclosure statement may be made. The statement shall be adjacent to the claim that is printed in the largest type on that panel.

* * * * *

(q) * * *

(2) * * * Such claims are exempt from the requirements of section 403(r)(2) of the act (e.g., the disclosure statement also required by § 101.13(h)).

* * *

(3) * * *

(ii) * * * All such claims shall be accompanied by any disclosure statement required under paragraph (h) of this section.

* * * * *

§ 101.14 [Amended]

3. Section 101.14 *Health claims: general requirements* is amended in paragraph (e)(3), in the 15th line by removing the word "referral" and adding in its place the word "disclosure".

4. Section 101.54 is amended by revising paragraph (d)(2) to read as follows:

§ 101.54 Nutrient content claims for "good source," "high," "more," and "potency."

* * * * *

(d) * * *

(2) The disclosure shall appear in immediate proximity to such claim, be in a type size no less than one-half the size of the claim and precede any disclosure statement required under § 101.13(h) (e.g., "contains [*x amount*] of total fat per serving. See nutrition information for fat content").

* * * * *

§ 101.62 [Amended]

5. Section 101.62 *Nutrient content claims for fat, fatty acid, and cholesterol content of foods* is amended in paragraphs (d)(1)(ii)(D), (d)(2)(iii)(C), (d)(2)(iv)(C), (d)(4)(ii)(C), and (d)(5)(ii)(C) by removing the phrase "the referral statement required in § 101.13(g)" wherever it appears and by adding in its place the phrase "any disclosure statement required under § 101.13(h)".

* * * * *

Dated: May 6, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–12833 Filed 5-14-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 524

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for two approved new animal drug applications (NADA's) from Mallinckrodt Veterinary Operations Inc., to Schering-Plough Animal Health Corp.

EFFECTIVE DATE: May 15, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Mallinckrodt Veterinary Operations, Inc., Mundelein, IL 60060, has informed FDA that it has transferred the ownership of and all rights and interests in the approved NADA's 102–020 (dichlorophene and toluene capsules) and 111–349 (selenium disulfide suspension) to Schering-Plough Animal Health Corp., 1095 Morris Ave., Union, NJ 07083. The agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to remove the sponsor name for Mallinckrodt Veterinary Operations, Inc., because the firm no longer is the holder of any approved NADA's. The agency is also amending 21 CFR 520.580 and 524.2101 to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520 and 524

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 parts 510, 520, and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for "Mallinckrodt Veterinary Operations, Inc."; and in the table in paragraph (c)(2) by removing the entry for "015563".

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 520.580 [Amended]

4. Section 520.580 *Dichlorophene and toluene capsules* is amended in paragraph (b)(1) by removing "015563," and numerically adding "000061,".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

5. The authority citation for 21 CFR part 524 continues to read as follows:

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

§ 524.2101 [Amended]

6. Section 524.2101 *Selenium disulfide suspension* is amended in paragraph (c) by removing "015563" and adding in its place "000061".

Dated: May 4, 1998.

Andrew J. Beaulieu,

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

[FR Doc. 98–12960 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Florfenicol Solution

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 Schering-Plough Animal Health Corp. The supplemental NADA provides for a revised warning against use of florfenicol injectable solution in veal calves.

EFFECTIVE DATE: May 15, 1998.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., 1095 Morris Ave., P.O. Box 1982, Union, NJ 07083–1982, is sponsor of NADA 141–063 Nuflor® Injectable Solution (300 milligrams florfenicol per milliliter) for veterinary prescription use for intramuscular treatment of cattle for bovine respiratory disease. Schering-Plough filed a supplemental NADA providing for a revised warning against use of the product in veal calves. The supplemental NADA is approved as of April 2, 1998, and the regulations are amended by revising 21 CFR 522.955(d)(1)(iii) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

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.

List of Subjects in 21 CFR Part 522

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 522 is 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.

§ 522.955 [Amended]

2. Section 522.955 *Florfenicol solution* is amended in paragraph (d)(1)(iii) by removing the sentences

"Not for use in veal calves, calves under 1 month of age, or calves being fed an all milk diet. Use may cause violative tissue residues to remain beyond the withdrawal time." and adding in its place "A withdrawal period has not been established in preruminating calves. Do not use in calves to be processed for veal."

Dated: May 4, 1998.

Andrew J. Beaulieu,

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

[FR Doc. 98–12961 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in June 1998.

EFFECTIVE DATE: June 1, 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during June 1998.

For annuity benefits, the interest assumptions will be 5.60 percent for the first 25 years following the valuation date and 5.25 percent thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.25 percent for the period during which a benefit is in pay status and 4.00 percent during any years preceding the benefit's placement in pay status. These annuity and lump sum interest assumptions are unchanged from those in effect for May 1998.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during June 1998, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a "significant regulatory action" under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 56 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date.]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t =	i_t	for t=	i_t	for t =
* * *	*		*	*		*
June 1998	.0560	1–25	.0525	>25	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0 < y \leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate I_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply.]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
•	•	•	•	•	•	•	•	•
56	06–1–98	07–1–98	4.25	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 8th day of May 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–12911 Filed 5–14–98; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–98–032]

Drawbridge Operation Regulations; Pocomoke River

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has issued a temporary deviation from the regulations governing the operation of the Route 675 (U.S. 13 Business Route) drawbridge across the Pocomoke River, mile 15.6, in Pocomoke City, Maryland. Beginning May 17, 1998, through June 16, 1998, this deviation requires three-hours advance notice for drawbridge openings from 9 a.m. through 3 p.m. on weekdays, and from 7 p.m. on Fridays through 6 a.m. on Mondays. This deviation is necessary to allow the contractor to paint the bridge.

DATES: This deviation is effective from May 17, 1998 through June 16, 1998.

FOR FURTHER INFORMATION: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION: Textar Painting Corporation, a contractor for the Maryland Department of Transportation, requested the Coast Guard to approve a temporary deviation from the normal operation of the bridge in order to accommodate painting the structure. To paint the bridge, a barge will be used. Three-hours advance notice will be required to open the bridge during the requested time periods.

This deviation will not significantly disrupt vessel traffic, since little exists at this location, and mariners may still transit the bridge provided the three-hours advance notice is given. The regulations at 33 CFR 117.569(b) require the draw to open on signal, except between November 1 and March 31 the draw must open only if at least five hours advance notice is given.

From May 17, 1998, through June 16, 1998, this deviation requires three-hours advance notice for openings of the Route 675 Pocomoke River Drawbridge (U.S. 13 Business route) from 9 a.m. through 3 p.m. on weekdays and from 7 p.m. on Fridays through 6 a.m. on Mondays.

Dated: April 30, 1998.

Roger T. Rufe, Jr.,

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

[FR Doc. 98–13015 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6013–9]

Protection of Stratospheric Ozone; Methyl Bromide

AGENCY: Environmental Protection Agency.

ACTION: Notice of clarification.

SUMMARY: This document clarifies a previous statement by EPA about the applicability of a Clean Air Act labeling rule to methyl bromide as a "class I ozone-depleting substance." The labeling rule requires products "containing" or "manufactured with" a class I ozone-depleting substance to be labeled as such. This document makes clear that any product, including any agricultural product, that "contains" or is "manufactured with" methyl bromide is subject to the labeling rule's requirements. At the same time, EPA is not aware of any agricultural product that "contains" or is "manufactured with" methyl bromide, as those terms are defined by the labeling rule. In particular, raw food commodities grown for the fresh food market and produced with the use of methyl bromide do not meet the definitions of products "containing" or "manufactured with" methyl bromide and are thus not subject to the labeling rule's requirements.

DATES: The effective date of this Notice of Clarification is May 15, 1998.

ADDRESSES: Comments and data relating to the methyl bromide rule are contained in Air Docket A–92–13, U.S. Environmental Protection Agency, OAR Docket and Information Center, Room M–1500, 401 M Street, S.W., Washington, D.C. 20460. Comments and data relating to the labeling rule are contained in Air Docket A–91–60, at the same location. Each of the dockets may be inspected between 8 a.m. and 5:30 p.m. on weekdays. The telephone number for the dockets is (202) 260–7548; the fax number is (202) 260–4400. As provided in 40 CFR, Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Carol Weisner at (202) 564–9193 or fax (202) 565–2096, Stratospheric Protection Division, USEPA, Mail Code 6205J, 401 M Street, SW., Washington, DC 20460. Overnight mail (Fed-Ex, Express Mail, etc.) should be sent to our 501 3rd Street, NW., Washington, DC 20001 street address.

SUPPLEMENTARY INFORMATION:

I. Background Information

A. Stratospheric Ozone Protection

Added in 1990, Title VI of the Clean Air Act ("CAA" or "Act") establishes a comprehensive program to protect stratospheric ozone, which helps shield the earth from harmful ultraviolet radiation. In particular, it requires EPA to list substances that have a significant potential to deplete stratospheric ozone as class I ozone-depleting substances, and to require their phaseout by a specified date. It also provides for a multi-faceted regulatory program to minimize the use and release of ozone-depleting substances prior to their phaseout.

B. Labeling Rule

Section 611 of the Act prohibits the introduction into interstate commerce of any product containing a class I substance or manufactured with a process using a class I substance, unless it bears a warning statement indicating that the product contains or is manufactured with ozone-depleting substances. To implement this and other provisions of section 611, EPA issued a final rule on February 11, 1993, at 58 FR 8136, which established labeling requirements for, among other things, products containing, or manufactured with a process that uses, a class I ozone-depleting substance (the "labeling rule.")

The labeling rule defines a "product containing" a class I substance as a "product including, but not limited to, containers, vessels, or pieces of equipment, that physically holds a controlled substance [i.e., a class I or II ozone-depleting substance] at the point of sale to the ultimate consumer which remains within the product." The rule also defines "manufactured with a controlled substance" as follows:

> [T]he manufacturer of the product itself used a controlled substance directly in the product's manufacturing, but the product itself does not contain more than trace quantities of the controlled substance at the point of introduction into interstate commerce. The following situations are excluded from the meaning of the phrase "manufactured with" a controlled substance:
>
> (1) Where a product has not had physical contact with the controlled substance;
>
> (2) Where the manufacturing equipment or the product has had physical contact with a controlled substance in an intermittent manner, not as a routine part of the direct manufacturing process;
>
> (3) Where the controlled substance has been transformed, except for trace quantities; or
>
> (4) Where the controlled substance has been completely destroyed.

The current labeling requirements are codified at 40 CFR Part 82, Subpart E (including sections 82.100–82.124).[1]

Section 82.102(a) of the labeling rule specifically provides that, in the case of any substance designated as a class I substance after February 11, 1993, the labeling requirements are applicable beginning one year after the designation of such substance, unless the rulemaking designating such substance provides otherwise.

C. Methyl Bromide Rule

EPA issued a final rule on December 10, 1993, at 58 FR 65018, pursuant to sections 602 and 604 of the CAA, listing methyl bromide as a class I ozone-depleting substance and establishing a phaseout date for its production and importation (the "methyl bromide rule.") Methyl bromide is used as a pesticide and fumigant.

The labeling rule became applicable to methyl bromide on January 1, 1995, one year following the effective date of its designation as a class I substance. In the preamble to the methyl bromide rule, EPA discussed the applicability of the labeling rule to methyl bromide. With respect to containers of methyl bromide, EPA stated that such containers would be subject to the labeling rule. With respect to agricultural products, EPA "determined that activities involved in growing, harvesting, storing and transporting food are part of an agricultural process that falls outside the intent of Congress to require labeling on products 'manufactured with' a class I or II substance" (58 FR at 65043, col. 3.) Based on this determination, EPA concluded that "products treated with methyl bromide would not require labeling." Id.

In reaching its conclusion, EPA recognized that "the general purpose of alerting consumers that certain goods were produced in a manner that may cause harm to stratospheric ozone could apply to certain agricultural products for which methyl bromide is used." Id. The Agency nevertheless concluded that the labeling requirement applicable to products "manufactured with" a class I substance was reasonably interpreted not to apply to agricultural products because "such products are grown and not manufactured." Id. EPA cited Webster's Ninth New Collegiate Dictionary (1983) for the ordinary definition of the word "manufacture" as making something from raw materials by hand or by machinery, which would not include the growing of fruits and vegetables. The Agency also stated that it believed Congress did not anticipate labeling of raw agricultural products given the practical difficulty of labeling such products, many of which are sold without any packaging at all.

D. Litigation

In February, 1994, the National Resources Defense Council, together with other parties, challenged this as well as other aspects of the methyl bromide rule by filing a petition in the U.S. Court of Appeals for the D.C. Circuit. EPA is issuing this clarification pursuant to a settlement agreement in that case.

II. Clarification

The need for this clarification arises out of the breadth of some of the Agency's statements taken out of context. In isolation, statements that "products treated with methyl bromide" and "agricultural products" do not require labeling could be interpreted to mean that any agricultural product is exempt from the labeling rule, regardless of whether and how methyl bromide was used in its production. EPA's discussion of the applicability of the labeling rule to methyl bromide addressed specific activities and types of products. Read in context, the Agency's statements are properly limited to the specific activities and products it addressed. The purpose of this notice is to confirm the limits of those statements and clarify the extent to which the labeling rule is applicable to methyl bromide.

As noted above, EPA addressed specific activities and products in its discussion of the labeling rule's applicability to methyl bromide. The Agency determined that "activities involved in growing, harvesting, storing and transporting food" do not constitute manufacturing under the labeling rule, and that Congress did not intend raw agricultural products such as fruits and vegetables to be labeled. From those determinations, EPA concluded that "products treated with methyl bromide would not require labeling."

EPA's conclusion is appropriate for the specific activities and products addressed. Growing and harvesting, as the Agency explained, do not constitute manufacturing, since they do not fit the

[1] In a January 19, 1995, rulemaking (60 FR 4010), the labeling rule was revised. Among other revisions, the definition of "manufactured with" was amended to indicate that a product "manufactured with" a controlled substance does not contain more than trace quantities of the controlled substance. The definition was also amended to expand the situations that are excluded from the phrase "manufactured with" to include where a *product* has physical contact with a controlled substance only in an intermittent manner and not as a routine part of the direct manufacturing process and where the controlled substance has been completely destroyed.

ordinary definition of manufacturing as making something from raw materials by hand or by machinery. Indeed, agricultural crops are generally considered "raw materials" that may or may not be made into something else by hand or by machine. (See, for example, the definition of "raw material" in Webster's Ninth New Collegiate Dictionary (1990): "wheat * * * is a raw material for the flour mill.") As a result, use of methyl bromide as a pesticide in growing a crop does not make the harvested crop a product "manufactured with" methyl bromide.

Generally speaking, use of methyl bromide as a fumigant in storing or transporting also does not make a product "manufactured with" methyl bromide. The labeling rule's definition of "manufactured with" specifies that the manufacturer of the product itself uses a class I substance "directly in the product's manufacturing." Storing and transporting are generally not part of a direct manufacturing process, although they may precede or follow such a process. By themselves, storing and transporting also do not meet the ordinary definition of manufacturing, since neither entails making something from raw materials by hand or by machine. Instead, they simply provide for the safekeeping or movement of a product, either raw or manufactured.

Further, the labeling rule requires that a product be labeled by the time it enters interstate commerce (section 82.124.) If a product has not been "manufactured with" methyl bromide by the time it enters interstate commerce, it does not become "manufactured with" methyl bromide by virtue of being treated with methyl bromide in storage or shipment following its entry into interstate commerce. Section 82.104(n) of the rule defines the possible points of entry into interstate commerce as the "release of a product from the facility in which the product was manufactured, the entry into a warehouse from which the domestic manufacturer releases the product for sale or distribution, and at the site of United States Customs clearance." Obviously, these points of entry will often precede storage or shipment of a product in the United States.

In the methyl bromide rule preamble, EPA also discussed the applicability of the labeling rule to particular products. The particular products addressed by EPA—raw agricultural products, including fruits and vegetables—result from particular activities that EPA determined do not constitute manufacturing—growing, harvesting, storing and transporting. It thus follows that they are not products "manufactured with" methyl bromide.

For the reasons given above, EPA believes that its discussion in the methyl bromide rulemaking of the labeling rule's applicability to methyl bromide was appropriate for the specific activities and products addressed. However, some members of the public have raised concerns that the discussion may be read to imply that an agricultural product is not subject to the labeling rule even when it contains or is manufactured with methyl bromide. The point of today's notice is to remove any such inadvertent implication.

The labeling rule applies to any product that "contains" or is "manufactured with" a class I ozone-depleting substance. Methyl bromide has been classified as a class I ozone-depleting substance. Therefore, any product containing or manufactured with methyl bromide is subject to the labeling rule's requirements in the same way as a product containing or manufactured with any other class I substance. For the reasons stated above, use of methyl bromide in growing, harvesting, storing or shipping a crop does not constitute "manufacturing with" methyl bromide and so would not subject the crop to the labeling requirement for products "manufactured with" a class I substance. But use of methyl bromide in the direct manufacturing process of a product would subject that product to the requirement.

EPA, however, is not aware of any agricultural product that "contains" or is "manufactured with" methyl bromide, as those terms are defined by the labeling rule. The definition of "product containing" specifies that the product "physically holds a controlled substance at the point of sale." To EPA's knowledge, no agricultural product so holds methyl bromide, nor is it likely that any would, given the volatility of methyl bromide. One of methyl bromide's advantages as a pesticide and fumigant is that it leaves virtually no residues on or in products treated with it. In any event, section 82.106(b)(1) of the labeling rule exempts from its requirements products containing no more than trace quantities of a controlled substance remaining as a residue where the controlled substance serves no useful purpose in or for the product itself. With respect to containers of methyl bromide itself, EPA made clear in the methyl bromide rule that such containers are subject to the labeling requirement for products "containing" a class I substance.

As noted above, EPA is also not aware of any agricultural products "manufactured with" methyl bromide. EPA has issued several applicability determinations related to the labeling rule. Five of them addressed whether particular uses of a class I substance constitute "manufacturing with" the substance. EPA found that these particular uses did not constitute "manufacturing with" a class I substance because the class I substance did not have physical contact with the product or was used in an intermittent, non-routine manner (which section 82.104(o)(2) of the rule exempts from the definition of "manufactured with.") These applicability determinations are available in the docket for the labeling rule.

Methyl bromide is currently used as a post-harvest pest control tool for raisins. Grapes are typically allowed to dry in the field and are harvested as raisins. They are then typically sold to a packer who treats the raisins with methyl bromide when held in storage. This use of methyl bromide would not require that the raisins be labeled. Storage of the raisins is not manufacturing, nor is it a part of any manufacturing process. Moreover, storage generally occurs after the raisins have been introduced into interstate commerce.

In the case of other dried fruits and nuts, methyl bromide is used in a similar manner. To EPA's knowledge, methyl bromide is not a direct part of any dried fruit or nut "manufacturing" process, but is used as a storage or pre-shipment pest control tool. Since these uses are not part of a direct manufacturing process, labeling is not required.

Methyl bromide is also used to treat empty food processing facilities for pest control. An example of such use is the periodic fumigation of flour mills when they are empty. In these cases, food products are typically removed from the facility prior to the methyl bromide treatment, which takes place on an as-needed basis (typically once or twice a year, depending on pest levels.) The methyl bromide used in these cases has no physical contact with any food products that are manufactured in the facility, so labeling is not required. Even if food products were present in the facility during the methyl bromide treatment, labeling would not be required if the treatment is done on an intermittent or infrequent basis.

EPA may not be aware of the details of all of the processes involving use of methyl bromide. There may be uses that are part of the direct manufacturing process for a product and that are not otherwise exempt from the labeling rule's definition of "manufactured

with." Any such use of methyl bromide would subject the resulting product to the labeling rule. Similarly, any product "containing" methyl bromide, as that phrase is defined by the labeling rule, is subject to the rule.

III. Submission to Congress and the General Accounting Office

The Congressional Review Act ("Act"), 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule.

IV. Additional Information

For more information on methyl bromide, please contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday–Friday, between the hours of 10:00 a.m. and 4:00 p.m. (EST). **Federal Register** publications can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. Each of the final rules referred to in this Notice may also be retrieved from EPA's Ozone Depletion World Wide Web site, at http://www.epa.gov/docs/ozone/ .

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Reporting and recordkeeping requirements.

Dated: May 8, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–12851 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300640; FRL–5784–8]

RIN 2070–AB78

Tebufenozide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of tebufenozide in or on peppers (bell and non-bell) . This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on peppers (bell and non-bell). This regulation establishes a maximum permissible level for residues of tebufenozide in this food commodity pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. The tolerance will expire and is revoked on September 30, 1999.

DATES: This regulation is effective May 15, 1998. Objections and requests for hearings must be received by EPA on or before July 14, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300640], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300640], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300640]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367, e-mail: ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing a tolerance for residues of the insecticide tebufenozide, in or on peppers (bell and non-bell) at 0.5 part per million (ppm). This tolerance will expire and is revoked on September 30, 1999. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum published in the **Federal Register** of November 13, 1996 (61 FR 58135) (FRL–5572–9).

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

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions

exist which require such exemption." This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Tebufenozide on Peppers (Bell and Non-bell) and FFDCA Tolerances

The applicant indicates that emergency conditions exist because beet armyworm (BAW) populations have demonstrated resistance to registered insecticides. The survival rate of the pest has been furhter compounded by a mild winter and unusually dry, hot weather which has increased. Naturally occurring epizootics require cool, wet conditions to have their greatest impact on this pest. The applicant also notes that there are unusually large numbers of BAW and damage due to BAW in peppers could result in a 50% yield loss without the use of an effective pesticide. EPA has authorized under FIFRA section 18 the use of tebufenozide on peppers (bell and non-bell) for control of beet armyworm in Texas. After having reviewed the submission, EPA concurs that emergency conditions exist for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of tebufenozide in or on peppers (bell and non-bell). In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on September 30, 1999, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on peppers (bell and non-bell) after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions EPA has not made any decisions about whether tebufenozide meets EPA's registration requirements for use on peppers (bell and non-bell) or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of tebufenozide by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Texas to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for tebufenozide, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the "no-observed effect level" or "NOEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a "safety factor") of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This 100-fold MOE is based on the same rationale as the 100-fold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or MOE calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure

that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include "acute", "short-term", "intermediate term", and "chronic" risks. These assessments are defined by the Agency as follows.

Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

Short-term risk results from exposure to the pesticide for a period of 1–7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1–7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.The TMRC is a "worst case" estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants (<1 year old)) was not regionally based.

IV. 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 tebufenozide and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of tebufenozide on peppers (bell and non-bell) at 0.5 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 tebufenozide are discussed below.

1. *Acute toxicity.* No acute dietary risk endpoint was identified by the Agency, therefore this risk assessment is not required.

2. *Short - and intermediate - term toxicity*— i. *Short-term.* NOEL = 1,000 milligrams/kilogram/day (mg/kg/day). Concerning short-term dermal toxicity, the Agency noted that in a 21–day dermal toxicity study in rats there was no systemic toxicity observed at 1,000 mg/kg/day, the highest dose tested (HDT). This risk assessment is not required.

ii. *Intermediate-term.* The Agency did not identify an intermediate-term toxicology endpoint. Additionally, because there is no intermediate exposure scenario with this section 18 request, an intermediate-term risk assessment is not required.

3. *Chronic toxicity.* EPA has established the RfD for tebufenozide at 0.018 mg/kg/day. This RfD is based on a 1–year feeding study in dogs with a NOEL of 1.8 mg/kg/day. An uncertainty factor of 100 was used to account for both the interspecies extrapolation and intraspecies variability. The lowest-effect-level (LEL) of 8.7 mg/kg/day was based on hematopoietic findings (decreased red blood cells, hematocrit, hemoglobin levels, and increased heinz bodies, MCV, MCH, reticulocytes, and platelets).

4. *Carcinogenicity.* Tebufenozide has been classified as a Group E, "no evidence of carcinogenicity for humans," chemical by the Agency.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.482) for the residues of tebufenozide, in or on a variety of raw agricultural commodities. A permanent tolerance has been established for the residues of tebufenozide in/on walnuts at 0.1 ppm. A permanent tolerance at 1.0 ppm has also previously been established for imported apples. Time limited tolerances have been established on apples and on associated animal commodities, cottonseed at 0.2 ppm, leafy vegetables (except brassica) at 5.0 ppm, brassica (cole) leafy vegetables at 5.0 ppm, sugar beets at 0.3 ppm, sugarcane at 0.03 ppm, and turnip tops at 5.0 ppm. A time limited tolerance for peppers (bell and non-bell) had been established at 0.5 ppm, however this tolerance expired on February 28, 1998. Risk assessments were conducted by EPA to assess dietary exposures and risks from tebufenozide as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. Since an acute dietary endpoint has not been identified in the toxicology database, an assessment of acute dietary risk was not conducted for this section 18 request.

ii. *Chronic exposure and risk.* In conducting this exposure assessment, EPA has made very conservative assumptions -- 100% of sugarcane and all other commodities having tebufenozide tolerances will contain tebufenozide residues and those residues would be at the level of the tolerance -- which result in an overestimate of human dietary exposure. Thus, in making a safety determination for this tolerance, EPA is taking into account this conservative exposure assessment. The existing tebufenozide tolerances (published, pending, and including the necessary section 18 tolerances) result in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

Population Subgroup	TMRC food (mg/kg/day)	%RfD
U.S. Population - 48 States	0.005516	31%
Nursing Infants (<1 year old)	0.007384	41%
Non-Nursing Infants (<1 year old)	0.014348	80%
Children (1–6 years old)	0.010646	59%
Children (7–12 years old)	0.007595	42%
Non-Hispanic Blacks	0.006063	34%
Non-Hispanic Others	0.007358	41%
Western Region	0.006033	34%

The subgroups listed above are: (a) the U.S. population (48 States); (b) those for infants and children; and, (c) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 States).

For chronic dietary risk to tebufenozide, the population subgroup with the largest percentage of the RfD occupied is non-nursing infants (<1 year old) at 80% of the RfD.

2. *From drinking water.* Submitted environmental fate studies suggest that tebufenozide is moderately persistent to persistent and mobile; thus, tebufenozide could potentially leach to ground water and runoff to surface water under certain environmental conditions. There is no established Maximum Contaminant Level (MCL) for residues of tebufenozide in drinking water. No drinking water Health Advisories have been issued for tebufenozide. There is no entry for tebufenozide in the "Pesticides in Groundwater Database" (EPA 734–12–92–001, September 1992).

Chronic exposure and risk. Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause tebufenozide to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with tebufenozide in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

3. *From non-dietary exposure.* Tebufenozide is not currently registered for any indoor or outdoor residential uses; therefore, no non-dietary residential exposure is anticipated.

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." The Agency believes that "available information" in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better

determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether tebufenozide 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, tebufenozide 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 tebufenozide has a common mechanism of toxicity with other substances.

C. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* Since no acute endpoint was identified for tebufenozide, no acute risk assessment is required.

2. *Chronic risk.* Using the conservative exposure assumptions described above, and taking into account the completeness and reliability of the toxicity data, EPA has concluded that dietary (food only) exposure to tebufenozide will utilize 31% of the RfD for the U.S. population. The Agency generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to tebufenozide in drinking water, EPA does not expect the aggregate exposure (food and water) to exceed 100% of the RfD. Since there are no non-dietary non-occupational exposure scenarios for tebufenozide, there are no additional exposure from those routes. The Agency concludes that there is a reasonable certainty that no harm will result from aggregate chronic exposure to tebufenozide residues.

3. *Short- and intermediate-term risk.* Since there were no toxicity endpoints identified by the Agency for tebufenozide and no indoor/outdoor residential uses, no short- or intermediate-term risk assessment was required.

D. Aggregate Cancer Risk for U.S. Population

Since tebufenozide has been classified as a Group E chemical, "no evidence of carcinogenicity for humans," no cancer risk assessment was required.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of tebufenozide, EPA considered data from developmental toxicity studies in the rat and rabbit and a two-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

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

ii. *Developmental toxicity studies*— a. *Rats.* In a developmental toxicity study in rats, the maternal (systemic) NOEL was 250 mg/kg/day. The LOEL was 1,000 mg/kg/day, based on decreased body weight and food consumption. The developmental (pup) NOEL was > 1,000 mg/kg/day (HDT).

b. *Rabbits.* In a developmental toxicity study in rabbits, the maternal and developmental NOELs were >1,000 mg/kg/day (HDT).

iii. *Reproductive toxicity study*— *Rats.* In a multigeneration reproductive toxicity study in rats, the parental (systemic) NOEL was 0.85 mg/kg/day. Splenic pigmentation changes and extramedullary hematopoiesis occurred at the LOEL of 12.1 mg/kg/day (Female, Male; F_0, F_1). In addition to these effects, decreased body weight gain and food consumption occurred at 171.1 mg/kg/day. The reproductive (pup) NOEL was 125 mg/kg/day. The reproductive LOEL of 171.1 mg/kg/day, based on a slight increase in the number of pregnant females that either did not deliver or had difficulty and had to be sacrificed (F_1). Additionally at the LOEL, in F_1 dams, the length of gestation increased and implantation sites decreased significantly. Finally, the number of pups per litter decreased on Lactation Day (LD) 4 to 90% of the controls for the F_1 and on LD's 0 and 4 to 80% for the second generation.

iv. *Pre- and post-natal sensitivity*— a. *Pre-natal sensitivity.* The developmental NOELs of >1,000 mg/kg/day (HDT) from the developmental toxicity studies in rats and rabbits demonstrate that there is no developmental (prenatal) toxicity present for tebufenozide. Additionally, these developmental NOELs are greater than 500–fold higher than the NOEL of 1.8 mg/kg/day from the 1–year feeding study in dogs which was the basis of the RfD.

b. *Post-natal sensitivity.* In the reproductive toxicity study in rats, the reproductive NOEL (12.1 mg/kg/day) is 14–fold higher than the parental NOEL (0.85 mg/kg/day) and indicates that post-natal toxicity in the reproductive studies occurs only in the presence of significant parental toxicity. These developmental and reproductive studies indicate that tebufenozide does not have additional post-natal sensitivity for infants and children in comparison to other exposed groups.

2. *Acute risk.* Since no acute endpoint was identified for tebufenozide, no acute risk assessment is required.

3. *Chronic risk.* Using the conservative exposure assumptions described above, HED has concluded that the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of tebufenozide ranges from 41% for nursing infants (< 1 year old) up to 80% for non-nursing

infants (< 1 year old). Despite the potential for exposure to tebufenozide in drinking water, HED does not expect the aggregate exposure (food and water) to exceed 100% of the RfD. Taking into account the completeness and reliability of the toxicity data and the conservative exposure assessment, HED concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to tebufenozide residues.

V. Other Considerations

A. Metabolism In Plants

The metabolism of tebufenozide in/on plants is adequately understood. The residue of concern is the parent compound, tebufenozide *per se*, as specified in 40 CFR 180.482.

B. Analytical Enforcement Methodology

The Rohm and Haas Analytical Method TR 34–93–119 (HPLC/UV), should be adequate to determine residues of tebufenozide per se in/on peppers.

C. Magnitude of Residues

Residues of tebufenozide per se are not expected to exceed 0.5 ppm in or on peppers as a result of this section 18 use.

D. International Residue Limits

There are currently no CODEX, Canadian, or Mexican listings for tebufenozide residues, therefore there are no harmonization issues for this action.

VI. Conclusion

Therefore, the tolerance is established for residues of tebufenozide in peppers (bell and non-bell) at 0.5 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by July 14, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300640] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

IX. Regulatory Assessment Requirements

This final rule establishes a tolerance under FFDCA section 408(l)(6). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, since these tolerances and exemptions that are established under FFDCA section 408 (l)(6), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that

there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance acations published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This 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: May 5, 1998.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180 — [AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In § 180.482, in paragraph (b) by revising the entry for "Peppers" in the table to read as follows:

§180.482 Tebufenozide; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * *	* *	* *
Peppers	0.5	9/30/99
* * *	* *	* *

* * * * *

[FR Doc. 98–12718 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 97–218]

Forfeiture Proceedings; Correction

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations (47 CFR Part 1), which were published in the **Federal Register** of August 14, 1997, (62 FR 43474). The regulations related to Practice and Procedure for Guidelines for Assessing Forfeitures.

DATES: Effective on May 15, 1998.

FOR FURTHER INFORMATION CONTACT: Deborah Hannah, Compliance and Information Bureau, (202) 418–1168, email dhannah@fcc.gov.

SUPPLEMENTARY INFORMATION:

Background

The final rule regulations that are the subject of this correction amended the Commission's rules to incorporate a note to the rule the Commission's policy statement regarding forfeitures.

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and need to be clarified.

List of Subjects in 47 CFR Part 1

Penalties.

Accordingly, 47 CFR Part 1 is corrected by making the following correcting amendment:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 303, and 309(j); unless otherwise noted.

§ 1.80 [Corrected]

2. In § 1.80, in note to paragraph (b)(4), page 112, the first column, line 27, remove the figure "$27,500" and add, in its place, "$275,000".

Federal Communications Commission.

Pamera D. Hairston,

Chief, Compliance Division.

[FR Doc. 98–12904 Filed 5–14–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–16; RM–9213]

Radio Broadcasting Services; Three Rivers, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document dismisses a petition filed by Live Oak Broadcasting proposing the allotment of Channel 265A to Three Rivers, Texas. *See* 63 FR 07360, February 13, 1998. Petitioner failed to filed comments indicating its continuing interest in applying for Channel 265A at Three Rivers, Texas, if allotted. Therefore, we have dismissed the petition for rule making by Live Oak Broadcasting. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 15, 1998.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–16, adopted April 22, 1998, and released May 1, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of

this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–12907 Filed 5–14–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–205; RM–9161]

Radio Broadcasting Services; Perry, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action in this document allots Channel 228A to Perry, Florida, as that community's second local service in response to a petition filed by Frank Vela. *See* 62 FR 51824, October 3, 1997. The coordinates for Channel 228A at Perry are 30–07–00 and 83–34–26. There is a site restriction .8 kilometers (.5 miles) east of the community. With this action, this proceeding is terminated. A filing window for Channel 228A at Perry, Florida, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

EFFECTIVE DATE: June 8, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No.97–205, adopted April 16, 1998, and released April 24, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, 303,334,336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Channel 228A at Perry.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–12905 Filed 5–14–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–188; RM–9137]

Radio Broadcasting Services; Macon, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Team Broadcasting Company, Inc., allots Channel 263A to Macon, Mississippi, as the community's first local FM service. *See* 62 FR 46708, September 4, 1997. Channel 263A can be allotted to Macon in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.8 kilometers (6.1 miles) west of the community. The coordinates for Channel 263A at Macon, Mississippi, are 33–06–37 NL and 88–39–59 WL. With this action, this proceeding is terminated.

EFFECTIVE DATE: June 15, 1998. A filling window for Channel 263A at Macon, Mississippi, will not be opened at this time. Instead the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 97–188, adopted April 22, 1998, and released May 1, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by adding Macon, Channel 263A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–12909 Filed 5-14-98; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF AGRICULTURE

48 CFR Parts 401, 402, 403, 407, 408, 409, 411, 416, 419, 422, 424, 425, 432, 434, 436, and 452

[AGAR Case 96–03]

RIN 0599–AA00

Office of Procurement and Property Management; Agriculture Acquisition Regulation; Miscellaneous Amendments

AGENCY: Office of Procurement and Property Management, USDA

ACTION: Direct final rule

SUMMARY: The Department of Agriculture is publishing technical corrections to the Agriculture Acquisition Regulation (AGAR) as a final rule. We use the direct final rule process to make noncontroversial changes to the AGAR. We are amending the AGAR to reflect changes in the Federal Acquisition Regulation through Federal Acquisition Circular 97–01 and to correct minor errors and omissions in the reissuance of the AGAR published on October 15, 1996 (61 FR 53645–53677).

EFFECTIVE DATE: This rule will be effective on July 14, 1998, unless we receive written adverse comments or written notice of intent to submit adverse comments on or before June 15, 1998. If adverse comments are received, the Department will publish a timely

withdrawal of the rule in the **Federal Register.**

ADDRESSES: Please submit any adverse comments, or a notice of intent to submit adverse comments, in writing to U.S. Department of Agriculture, Office of Procurement and Property Management, Procurement Policy Division, STOP 9303, 1400 Independence Avenue SW, Washington, DC 20250–9303.

FOR FURTHER INFORMATION CONTACT: Joseph J. Daragan, (202) 720–5729.

SUPPLEMENTARY INFORMATION:

I. Background

The AGAR implements the Federal Acquisition Regulation (FAR) (48 CFR Ch. 1) where further implementation is needed, and supplements the FAR when coverage is needed for subject matter not covered by the FAR. The AGAR is being revised to reflect changes in the Federal Acquisition Regulation through Federal Acquisition Circular 97–01 and to correct minor errors and omissions in the AGAR. In this rulemaking document, the Department of Agriculture is making corrections to the AGAR as a direct final rule, since the corrections are non-controversial and unlikely to generate adverse comment. The corrections are clerical or procedural in nature, and do not affect the public.

The following changes have been made to the rule.

(a) AGAR 401.170 is added to inform users about the USDA Departmental Administration Procurement Homepage.

(b) AGAR 402.101 is amended to change the title of the Senior Procurement Executive's organization.

(c) AGAR 403.104–5, 422.608, 422.608–4, 425.203, and 425.204 have been removed to reflect amendments to the FAR.

(d) AGAR 403.104–11, 416.404, 416.404–2, and 416.405 have been redesignated 403.104–10, 416.405, 416.405–2, and 416.406, respectively, to reflect amendments to the FAR.

(e) The title of AGAR subpart 408.7 is amended to refer to the "severely disabled" instead of the "severely handicapped".

(f) The definition of "debarring official" in AGAR 409.403 is amended to clarify the authority of the Executive Vice President, Commodity Credit Corporation (CCC) to conduct suspension or debarment actions related to CCC commodity contracts. This amendment reflects suspension and debarment authority conferred on CCC by 7 CFR 1407.

(g) AGAR 411.171 and 411.404 have been revised to reflect changes to the numbering of six clauses referenced in these sections.

(h) AGAR 419.602–3 and 425.202 have been revised to reflect amendments to the FAR.

(i) The schedule for submission of subcontract award data to the Office of Small and Disadvantaged Business Utilization by USDA agencies has been changed, and AGAR 419.201–73 is amended accordingly.

(j) The citation to the definition of "major system" in the FAR is corrected to conform to an amendment to the FAR. AGAR 434.001 is revised to cite the definition at FAR 2.101.

(k) AGAR part 436 is revised to remove subpart 436.3 and to redesignate 436.302 as 436.213–2 to reflect an amendment to the FAR.

(l) AGAR 436.575, Maximum workweek—construction schedule, is revised to add a reference to FAR clause 52.236–15, Schedules for Construction Contracts.

(m) Clauses 452.211–1 through 452.211–6 are redesignated 452.211–70 through 452.211–75, respectively, to conform to the numbering scheme established by FAR 1.303. Clause 452.232–1 likewise is redesignated 452.232–70 to conform to this numbering system.

II. Procedural Requirements

A. Executive Order Nos. 12866 and 12988

A work plan was prepared for this regulation and submitted to the Office of Management and Budget pursuant to Executive Order No. 12866. The rule has been determined to be not significant for the purposes of Executive Order No. 12866. Therefore, the rule has not been reviewed by the Office of Management and Budget. This rule has been reviewed in accordance with Executive Order No. 12988, Civil Justice Reform. The proposed rule meets the applicable standards in section 3 of Executive Order No. 12988.

B. Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601–611, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. The corrections to the AGAR do not affect the way in which USDA conducts its acquisitions or otherwise interacts with the public. USDA certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed on the public by this final rule. Accordingly no OMB clearance is required by section 350(h) of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR Part 1320.

D. Small Business Regulatory Enforcement Fairness Act

This final rule has been submitted to each House of Congress and the Comptroller General in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801 *et seq.*

IV. Electronic Access Addresses

You may send electronic mail (E-mail) to JDARAGAN@USDA.GOV, or contact us via fax at (202) 720–8972, if you would like additional information about this rule, or if you wish to submit comments.

List of Subjects in 48 CFR Parts 401, 402, 403, 407, 408, 409, 411, 416, 419, 422, 424, 425, 432, 434, 436, and 452

For the reasons set out in the preamble, 48 CFR Chapter 4 is amended as set forth below:

1. The authority citation for parts 401, 402, 403, 407, 408, 409, 411, 416, 419, 422, 424, 425, 432, 434, 436 and 452, continues to read as follows:

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

2.–3. Section 401.170 is added to read as follows:

401.170 Electronic access to regulatory information.

The USDA Departmental Administration Procurement Homepage provides access to the AGAR, AGAR amendments (circulars), AGAR Advisories, and other USDA procurement policy and guidance in electronic form. The Internet address for the Procurement Homepage is URL http://www.usda.gov/da/procure.html.

402.101 [Amended]

4. In section 402.101 in the definition of *Senior Procurement Executive (SPE),*

remove the words "Director, Procurement and Property Management, Policy Analysis and Coordination Center" and add, in their place, "Director, Office of Procurement and Property Management".

403.104–5 [Removed]

5. Section 403.104–5 is removed and reserved.

403.104–11 [Redesignated as 403.104–10]

6. Section 403.104–11 is redesignated as 403.104–10.

7.–8. Newly designated section 403.104–10 is amended by revising the heading and paragraph (b) to read as follows:

403.104–10 Violations or possible violations.

* * * * *

(b) Heads of contracting activities (HCA's) or their designees who receive information concerning any violation or possible violation of the Act shall take action in accordance with FAR 3.104–10(b).

407.503 [Amended]

9. In paragraph (b)(4) of section 407.503, remove the word "activity" and add, in its place, the word "activity's".

PART 408—[AMENDED]

10. In Part 408, remove the word "Handicapped" wherever it appears and add, in its place, the word "Disabled".

PART 409—[AMENDED]

11. Section 409.403 is revised to read as follows:

409.403 Definitions.

Debarring official. Pursuant to the Secretary's delegations of authority in 7 CFR 2.24, the Senior Procurement Executive (SPE) is designated as the debarring official (Department Debarring Officer) with the following exceptions:

(a) For commodity contracts awarded on behalf of the Commodity Credit Corporation (CCC), the Executive Vice President, CCC, or his designee is designated as the debarring official pursuant to 7 CFR part 1407.

(b) For contracts awarded under the School Lunch and Surplus Removal Programs (42 U.S.C. 1755 and 7 U.S.C. 612c), the Department Debarring Officer has delegated debarring authority to the Agricultural Marketing Service (AMS).

PART 411—[AMENDED]

12. Section 411.171 is revised to read as follows:

411.171 Solicitation provisions and contract clauses.

(a) Contracting officers shall insert the provision at 452.211–70, Brand Name or Equal, in solicitations, other than those for construction, where "brand name or equal" purchase descriptions are used.

(b) Contracting officers shall insert the clause at 452.211–71, Equal Products Offered, in solicitations, other than those for construction, where the provision at 452.211–70 is included.

(c) Contracting officers shall insert the clause at 452.211–72, Statement of Work/Specifications, when the description (statement of work) or specification(s) is included in Section J of the solicitation.

(d) Contracting officers shall insert the clause at 452.211–73, Attachment to Statement of Work/Specifications, when there are attachments to the description (statement of work) or specifications.

13. Section 411.404 is revised to read as follows:

411.404 Contract clauses.

(a) The contracting officer shall insert the clause at 452.211–74, Period of Performance, when it is necessary to specify a period of performance, beginning on the date of award, date of receipt of notice of award, or a specified date.

(b) The contracting officer shall insert the clause at 452.211–75, Effective Period of the Contract, when it is necessary to specify the effective period of the contract.

PART 416—[AMENDED]

14. In subpart 416.4, sections 416.404, 416.404–2, and 416.405 are redesignated 416.405, 416.405–2, and 416.406, respectively.

PART 419—[AMENDED]

15. Section 419.201–73 is amended by revising paragraph (b) to read as follows:

419.201–73 Reports.

* * * * *

(b) The following dates must be adhered to in regard to the reporting of subcontract award data.

SF–294 Reports
Frequency: Twice a Year.
Cut-off date (Reporting Period Ending): March 31.
Date Due at Contracting Activity: April 30.
Cut-off date (Reporting Period Ending): September 30.
Date Due at Contracting Activity: October 30.

SF–295 Reports
Frequency: Once a Year.
Cut-off date (12 Month-Period Ending): September 30.
Date Due at OSDBU: October 30.

16. Section 419.602–3 is revised to read as follows:

§ 419.602–3 Resolving differences between the agency and the Small Business Administration.

The HCA is authorized to appeal the issuance of a COC to SBA Headquarters as provided by FAR 19.602–3(a).

422.608 [Removed]

17. Section 422.608 is removed and reserved.

422.608–4 [Removed]

18. Section 422.608–4 is removed.

424.202 [Redesignated as 424.203]

19. Section 424.202 is redesignated as section 424.203.

PART 425—[AMENDED]

20.–21. Section 425.202 is revised to read as follows:

425.202 Policy.

(a) The SPE shall make the determination prescribed in FAR 25.202(a)(3).

(b) If a contracting officer proposes that the use of a particular domestic construction material should be waived for a contract on the grounds that its use would be impracticable, the contracting officer shall submit a proposed determination with supporting information through the HCA to the SPE for approval or disapproval.

425.203 [Removed]

425.204 [Removed]

22. Sections 425.203 and 425.204 are removed and reserved.

432.111 [Amended]

23. In section 432.111, remove "452.232–1" and add, in its place, "452.232–70".

434.001 [Amended]

24. In section 434.001, in the introductory text, remove "34.001" and add, in its place, "2.101".

PART 436—[AMENDED]

25.–26. Sections 436.213 and 436.213–2 are added to read as follows:

436.213 Special procedures for sealed bidding in construction contracting.

436.213–2 Presolicitation notices.

The authority to waive a presolicitation notice is restricted to the HCA.

Subpart 436.3—[Removed]

27. Subpart 436.3 is removed and reserved.

28. Section 436.575 is revised to read as follows:

436.575 Maximum workweek-construction schedule.

The contracting officer shall insert the clause at 452.236–75, Maximum Workweek-Construction Schedule, if the clause at FAR 52.236–15 is used and the contractor's work schedule is restricted by access to the facility or must be coordinated with the schedule of contract administration personnel.

452.211–1—452.211–6 [Redesignated as 452.211–70—452.211–75]

29.–30. Sections 452.211–1 through 452.211–6 are redesignated sections 452.211–70 through 452.211–75, respectively.

452.232–1 [Redesignated as 452.232–70]

31. Section 452.232–1 is redesignated as 452.232–70.

Done at Washington, D.C., this 7th day of May, 1998.

W.R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 98–12841 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–XE–P

DEPARTMENT OF AGRICULTURE

Office of Procurement and Property Management

48 CFR Parts 426 and 452

[AGAR Case 96–01]

RIN 0599–AA00

Agriculture Acquisition Regulation; Preference for Selected Biobased Products

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Agriculture Acquisition Regulation (AGAR) to establish policy and procedures for set-asides and preferences for products developed with assistance provided by the Alternative Agricultural Research and Commercialization Corporation (AARCC). This amendment is needed to implement the set-asides and preferences described in section 1665 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 5909). USDA will use these new policies and procedures to increase its acquisition of AARCC supported products.

DATES: This rule is effective July 14, 1998.

FOR FURTHER INFORMATION CONTACT: J.R. Holcombe, Jr., (202) 720–8484.

SUPPLEMENTARY INFORMATION:

I. Background

The AGAR implements the Federal Acquisition Regulation (FAR) (48 CFR Ch. 1) where further implementation is needed, and supplements the FAR when coverage is needed for subject matter not covered by the FAR. This rule amends the AGAR to establish acquisition preferences for selected biobased products; i.e., nonfood, nonfeed products made from agricultural and forestry materials and animal by-products.

The Alternative Agricultural Research and Commercialization Corporation (AARCC), a wholly-owned government corporation of the Department of Agriculture (USDA), provides financial assistance to private companies and other parties to commercialize biobased products. Section 1665 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5909), added by section 729 of the Federal Agriculture Improvement and Reform Act of 1996 (Section 1665), authorizes Federal executive agencies to establish set-asides and preferences for biobased products that have been commercialized with assistance provided by AARCC.

In a Notice of Proposed Rulemaking (62 FR 52081, October 6, 1997), USDA announced that this proposed amendment to the AGAR was available for public review and comment during a 60-day comment period. One commenter, a trade association, submitted comments on the proposed rule to USDA. We considered these comments and concluded that no changes to the proposed rule were required. In this rulemaking document, USDA is finalizing the proposed amendment to the AGAR.

We are making the following changes to the AGAR:

(a) We are adding AGAR part 426, Other Socioeconomic Programs, with a subpart 426.70, Preference for Selected Biobased Products. This subpart establishes policy and procedures for preferences and set-asides for products developed with AARCC assistance.

(b) Provisions 452.226–70, Preferred Products, 452.226–71, Set-aside for Mandatory Products, and 452.226–72, Price Preference for Award, are added to AGAR part 452.

II. Analysis of Comments

We received one comment in response to the Notice of Public Rulemaking. A trade association commented that it would be appropriate to include biodiesel fuels and related biobased products on Preference Lists for biobased products established in accordance with AGAR 426.7005. To the extent that such fuels are products developed with assistance from AARCC (AARCC products), they would be eligible for inclusion on the Preference List. Biodiesel fuels that are not AARCC products are outside the scope of the rule and of Section 1665. Since establishing preferences for other than AARCC products is outside the scope of this rule, we did not make any change to the rule.

III. Procedural Requirements

A. Executive Order Nos. 12866 and 12988

A work plan was prepared for this regulation and submitted to the Office of Management and Budget pursuant to Executive Order No. 12866. The rule has been determined to be not significant for the purposes of Executive Order No. 12866. Therefore, the rule has not been reviewed by the Office of Management and Budget. This rule has been reviewed in accordance with Executive Order No. 12988, Civil Justice Reform. The rule meets the applicable standards in section 3 of Executive Order No. 12988.

B. Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act, 5 U.S.C. 601–611, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. This final rule will not have an adverse impact on a substantial number of small businesses. In Fiscal Year 1997, USDA contract purchases from small business concerns totaled $710 million, not including commodity purchases. USDA purchases of AARCC products are unlikely to exceed $1 million annually, even with preferences. The anticipated dollar volume of AARCC product purchases thus would be less than 0.1% of the volume of products and services USDA now purchases from small businesses. Furthermore, AARCC product purchases will be made almost entirely from small businesses.

Our analysis of the impact of AARCC preferences suggests that the AARCC

preference program will benefit small business concerns. While Section 1665 does not require that all AARCC products be manufactured by or provided by small business concerns, the AARCC program concentrates on assistance for small businesses in the development of new commercial items. Almost all AARCC products eligible for set-asides or preferences under this rule will be provided by small businesses. The majority of businesses supported by AARCC are start-up companies. Thus, the overall impact of this final rule on small entities will be positive.

USDA solicited comments from small entities concerning the impact of the proposed rule in the Notice of Proposed Rulemaking publicizing the proposed rule for comment (62 FR 52081, October 6, 1997). No comments from small entities were received.

USDA certifies that this rule will not have a significant economic effect on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

No information collection or recordkeeping requirements are imposed on the public by this rule. Accordingly no OMB clearance is required by section 350(h) of the Paperwork Reduction Act, 44 U.S.C. 3501, et. seq., or OMB's implementing regulation at 5 CFR Part 1320.

D. Small Business Regulatory Enforcement Fairness Act

This rule has been submitted to each House of Congress and the Comptroller General in accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801, et seq.

IV. Electronic Access Addresses

You may send electronic mail (E-mail) to RHOLCOMBE@USDA.GOV, or contact us via fax at (202) 720–8972, if you would like additional information about this rule.

List of Subjects in 48 CFR Parts 426 and 452

Agriculture, Government procurement.

For the reasons set out in this preamble, the Department is amending Chapter 4 of Title 48 of the Code of Federal Regulations as follows:

1. Add Part 426 to read as follows:

PART 426—OTHER SOCIOECONOMIC PROGRAMS

Subpart 426.70—Preference for Selected Biobased Products

Sec.

Authority: 5 U.S.C. 301; 7 U.S.C. 5909; 40 U.S.C. 486(c).

Subpart 426.70—Preference for Selected Biobased Products

426.7000 Scope of subpart.

This subpart supplements the FAR to implement the set-asides and preferences described in section 1665 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 5909).

426.7001 Applicability.

This subpart applies to USDA and all of its components, including corporations.

426.7002 Authority.

Section 1665 of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 5909) authorizes USDA to establish set-asides and other preferences for products that have been assisted by the Alternative Agricultural Research and Commercialization Corporation (AARCC).

426.7003 Policy.

(a) AARCC provides financial assistance to private companies and other parties to commercialize nonfood, nonfeed products made from agricultural and forestry materials and animal by-products (biobased products). Biobased products by their nature are environmentally friendly, and, in many instances, use agricultural material that otherwise would be waste. It is the policy of USDA to acquire AARCC products to the maximum extent practicable. This policy applies to all acquisitions of products regardless of dollar value.

(b) USDA shall satisfy its requirements for products the same or essentially the same as AARCC products by applying the preferences or set-asides described by this subpart.

426.7004 Definitions.

As used in this subpart—

AARCC products are products developed with assistance provided by AARCC as authorized by 7 U.S.C. 5905.

Acquisitions of products means an acquisition of one or more products for the use of the Government.

Acquisitions involving the use of products means an acquisition in which a Government contractor uses products in contract performance.

Price preference means an amount, expressed as a percentage, to be used in the evaluation of offers in an acquisition of products.

Set-aside means a requirement that vendors responding to a solicitation offer AARCC products.

Solicitation includes actions taken under parts 12, 13, 14, 15, and 36 of the Federal Acquisition Regulation.

Technical evaluation preference means the use of an award factor or subfactor in which the Government expresses its preference for AARCC products.

426.7005 Preference list.

(a) The Office of Procurement and Policy Management (OPPM) and AARCC jointly shall establish and maintain a Preference List for AARCC products.

(b) The Preference List shall contain the list of preferred products, source information for these products, the type(s) of preference to be applied, the beginning and ending dates for the use of preferences, and other terms established to define the preference given to a product.

(c) The Preference List will be publicized within USDA by means of AGAR Advisories (see 401.371). Copies of the Preference List may be obtained from OPPM. The Preference List will also be posted on the World Wide Web at the USDA Procurement Home Page.

426.7006 Use of a set-aside or a price preference.

Acquisitions for products the same or essentially the same as those products appearing on the Preference List shall either be set-aside exclusively or shall include a price preference for those products shown on the Preference List. The actual price preference to be used shall be determined by the requiring office but may not exceed the percentage shown on the Preference List.

426.7007 Use of a technical evaluation preference.

Acquisitions involving the use of products the same or essentially the same as those products appearing on the Preference List shall include a technical evaluation preference, if authorized in

the Preference List. The technical evaluation preference may be determined by the contracting officer specifically for each acquisition.

426.7008 Identification of preferred products.

(a) Products subject to a set-aside or technical preference shall be separately listed in the schedule, specification, or performance work statement.

(b) Products subject to a price preference shall be separately listed in the schedule.

426.7009 Contract provisions.

(a) Each solicitation containing a price or technical preference under this subpart shall contain the provision 452.226–70, Preferred Products.

(b) Each solicitation for products subject to a set-aside shall include the provision 452.226–71, Set-Aside For Mandatory Products.

(c) Each solicitation for products subject to a price preference shall include the provision 452.226–72, Price Preference for Award.

(d) Solicitations for products may contain both the provision in 452.226–71 and the provision found in 452.226–72.

(e) The provisions prescribed in this section are not required for acquisitions accomplished using the purchase card as a stand alone tool.

PART 452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

2. The authority citation for Part 452 continues to read as follows:

Authority: 5 U.S.C. 301 and 40 U.S.C. 486(c).

3. Add sections 452.226–70, 452.226–71, and 452.226–72 to read as follows:

452.226–70 Preferred Products.

As prescribed in 426.7009(a), include the following provision:

Preferred Products (May 1998)

Specific products required by this solicitation and resulting contract are subject to a price or a technical preference. A list of these products, the specific preference, and the manufacturer or producer is included below.

Contract Line Item (or other location in this solicitation): * _____

Product: _____

Manufacturer/Producer: * _____

_____

_____

_____

Preference: * _____

_____

(End of provision)

** For each line item to which a preference applies, Contracting officer shall insert appropriate information.*

452.226–71 Set-aside for Mandatory Products.

As prescribed in 426.7009(b), include the following provision:

Set-Aside for Mandatory Products (May 1998)

Specific products are set-aside as mandatory products. These are separately listed in the schedule, specifications, or performance work statement. Specific terms governing the set-aside, and source information for the products are shown below.

Contract Line Item (or other location in this solicitation): * _____

_____

Product: * _____

Manufacturer/Producer: * _____

_____

_____

_____

Set-Aside Terms: * _____

_____

(End of provision)

* For each line item to which a set-aside applies, Contracting officer shall insert appropriate information.

452.226–72 Price Preference for Award.

As prescribed in 426.7009(c), include the following provision:

Price Preference for Award (May 1998)

Certain products listed in the schedule of this solicitation are subject to a price preference. A list of these products, the amount of the preference, and source information is included in provision 452.226-70, Preferred Products. For purposes of evaluation of offers only, the offered prices for these products will be reduced by the price preference listed in the solicitation.

(End of provision)

Done at Washington, D.C., this 7th day of May, 1998.

W.R. Ashworth,

Director, Office of Procurement and Property Management.

[FR Doc. 98–12842 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–XE–P

Proposed Rules

Federal Register
Vol. 63, No. 94
Friday, May 15, 1998

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

[Docket No. FV98–958–1 PR]

Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would decrease the assessment rate established for the Idaho-Eastern Oregon Onion Committee (Committee) under Marketing Order No. 958 for the 1998–99 and subsequent fiscal periods from $0.10 to $0.09 per hundredweight of onions handled. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon.

Authorization to assess Idaho-Eastern Oregon onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins July 1 and ends June 30. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by June 1, 1998.

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

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 958 (7 CFR part 958), regulating the handling of onions grown in certain designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, Idaho-Eastern Oregon onion handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate proposed herein would be applicable to all assessable onions beginning on July 1, 1998, and continue until amended, suspended, or terminated. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule would decrease the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.10 per hundredweight to $0.09 per hundredweight of onions handled.

The order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The Committee consists of six producer members, four handler members and one public member, each of whom is familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The budget and assessment rate were discussed at a public meeting and all directly affected persons had an opportunity to participate and provide input.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate of $0.10 per hundredweight that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on April 2, 1998, and unanimously recommended 1998–99 expenditures of $1,155,205 and an assessment rate of $0.09 per hundredweight of onions handled during the 1998–99 and subsequent fiscal periods. The Committee estimated that the 1998–99 onion crop will approximate 9,200,000 hundredweight of onions. In comparison, the 1997–98 fiscal period budget was established at $1,146,916 on an estimated assessable onion harvest of 8,800,000 hundredweight of onions. The decrease is necessary to prevent expected

assessment income from exceeding the amount necessary to administer the program for the 1998–99 fiscal period.

The Committee anticipates that assessment income during the 1997–98 fiscal period will be approximately $100,000 higher than that estimated for its 1997–98 budget. This is due to a greater level of onion production than anticipated by the Committee during its 1997–98 budget deliberations. The Committee also anticipates that it will not expend $1,146,916 as budgeted for the 1997–98 fiscal period, but rather will have expenditures totaling approximately $950,000. At the time the 1997–98 fiscal period budget was recommended, the Committee had estimated that it would draw up to $216,916 from its operating reserve. However, since current assessment income is greater than anticipated and expenditures are less than budgeted, the operating reserve may actually increase by the end of the fiscal period rather than decrease. As a consequence, the Committee has estimated that its operating reserve will approximate $1,141,700 by June 30, 1998. Thus, to help ensure that the operating reserve does not exceed the maximum allowed by the order of approximately one fiscal period's expenditures, the Committee recommended that the assessment rate be decreased. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the program with an adequate operating reserve.

The major expenditures recommended by the Committee for the 1998–99 fiscal period include $215,205 for administration, $55,000 for production research, $750,000 for market promotion including paid advertising, $60,000 for export market development, and $75,000 for marketing order contingencies. Budgeted expenses for these items in the 1997–98 fiscal period were $206,716, $55,200, $750,000, $60,000, and $75,000, respectively.

The Committee has based its recommended assessment rate decrease on the 1998–99 crop estimate, the 1998–99 fiscal period expenditures estimate, as well as the current and projected balance of the operating reserve. The decreased assessment rate should provide $828,000 in income, which, when combined with interest income of $55,000 and operating reserve funds of $272,205, would be adequate to cover budgeted expenses. As noted above, the Committee estimates it will have approximately $1,141,700 in its operating reserve at the end of the current fiscal period, which should be adequate to cover any income shortages. This amount is within the maximum permitted by the order of approximately one fiscal period's expenditures (§ 958.44).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department and are locally published. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary.

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

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

There are approximately 35 handlers of Idaho-Eastern Oregon onions who are subject to regulation under the order and approximately 260 onion producers in the regulated production area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of Idaho-Eastern Oregon onion handlers and producers may be classified as small entities.

This rule would decrease the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.10 per hundredweight to $0.09 per hundredweight of onions handled. Both the $0.09 assessment rate and the 1998–99 budget of $1,155,205 were unanimously recommended by the Committee at its April 2, 1998, meeting. The proposed assessment rate is $0.01 lower than the rate currently in effect. The Committee recommended a decreased assessment rate to help ensure that the operating reserve does not exceed the maximum allowed by the order of approximately one fiscal period's expenditures. The anticipated crop of 9,200,000 hundredweight is approximately 400,000 hundredweight larger than the crop estimate used to establish the 1997–98 budget. The $0.09 rate should provide $828,000 in assessment income, which, when combined with interest income of $55,000 and $272,205 from the operating reserve, would be adequate to meet the 1998–99 fiscal period's budgeted expenses.

The Committee reviewed and unanimously recommended 1998–99 expenditures of $1,155,205 which includes increases in administrative expenses, salaries, and committee expenses. Prior to recommending this budget, the Committee considered information from various sources, including the Idaho-Eastern Oregon Onion Executive, Research, Promotion and Export Development Committees. Alternative expenditure levels were discussed and rejected by these subcommittees, and ultimately by the full Committee, based upon the relative value of various research and promotion projects to the Idaho-Eastern Oregon onion industry.

The major expenditures recommended by the Committee for the 1998–99 fiscal period include $215,205 for administration, $55,000 for production research, $750,000 for market promotion including paid advertising, $60,000 for export market development, and $75,000 for marketing order contingencies. Budgeted expenses for these items in the 1997–98 fiscal period were $206,716, $55,200, $750,000, $60,000, and $75,000, respectively.

A review of historical information and preliminary information pertaining to the upcoming season indicates that the F.O.B. price for the 1998–99 onion season could average $13.10 per hundredweight of onions. Therefore, the estimated assessment revenue for the 1998–99 fiscal period ($828,000) as a percentage of the projected total F.O.B. revenue ($120,520,000) would be 0.007 percent. This figure indicates that the $0.09 assessment rate recommended by the Committee would have a relatively

insignificant impact on the Idaho-Eastern Oregon onion industry.

This action would decrease the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order. In addition, the Committee's meeting was widely publicized throughout the Idaho-Eastern Oregon onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 2, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

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

A 15-day comment period is provided to allow interested persons the opportunity to respond to this request for information and comments. Fifteen days is deemed appropriate because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1998–99 fiscal period begins on July 1, 1998, and the order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; and (3) handlers are aware of this action which was recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 958 is proposed to be amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 958 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 958.240 is proposed to be revised to read as follows:

§ 958.240 Assessment rate.

On and after July 1, 1998, an assessment rate of $0.09 per hundredweight is established for Idaho-Eastern Oregon onions.

Dated: May 11, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–13005 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–18–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–6 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to General Electric Company (GE) CF6–6 series turbofan engines. This proposal would require removal from service of affected low pressure turbine (LPT) stage 4 disks prior to reaching new, reduced cyclic life limits, and replacement with serviceable parts. This proposal is prompted by reports of LPT stage 4 disk cracking in the blade dovetail slot bottom area. The actions specified by the proposed AD are intended to prevent LPT stage 4 disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

DATES: Comments must be received by June 15, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–18–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Karen Curtis, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7192, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–18–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–18–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

The Federal Aviation Administration (FAA) has received reports of low

pressure turbine (LPT) stage 4 disk cracking on General Electric Company (GE) CF6–6 series turbofan engines. The investigation revealed that the dovetail slot bottoms of the LPT stage 4 disks, part numbers (P/Ns) 9010M40P01, 9010M40P02, 9010M40P07, 9010M40P09, and 9010M40P12, have higher than predicted levels of stress during engine operation. In addition, the low cycle fatigue (LCF) material properties have been found to be lower than the original design intent. The disk cracks were found by inspection during engine shop visits. Extensive material testing, and stress and life analyses revealed a minimum calculated LCF cyclic life lower than the published LCF cyclic retirement life for the stage 4 LPT disks. This condition, if not corrected, could result in LPT stage 4 disk cracking, which could result in an uncontained engine failure and damage to the aircraft.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removal from service of affected LPT stage 4 disks prior to reaching new, reduced cyclic life limits, and replacement with serviceable parts .

There are approximately 257 engines of the affected design in the worldwide fleet. The FAA estimates that 242 engines installed on aircraft of U.S. registry would be affected by this proposed AD, and that required parts, on a prorated basis, would cost approximately $22,432 per engine. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,428,544.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. 98–ANE–18–AD.

Applicability: General Electric Company (GE) CF6–6 series turbofan engines, installed on but not limited to McDonnell Douglas DC–10–10 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent low pressure turbine (LPT) stage 4 disk cracking, which could result in an uncontained engine failure and damage to the aircraft, accomplish the following:

(a) Remove from service LPT stage 4 disks, part numbers (P/Ns) 9010M40P01, 9010M40P02, 9010M40P07, 9010M40P09, and 9010M40P12, and replace with serviceable parts, in accordance with the following schedule:

(1) For disks with 12,300 or more cycles since new (CSN) but less than 24,000 CSN on the effective date of this AD, remove from service affected disks at the earliest of the following:

(i) The next piece-part exposure after the effective date of this AD; or

(ii) The next engine shop visit after accumulating 16,500 CSN; or

(iii) Within 4,200 cycles in service (CIS) after the effective date of this AD; or

(iv) Prior to exceeding 24,000 CSN.

(2) For disks with 5,000 or more CSN, but less than 12,300 CSN, on the effective date of this AD, remove from service affected disks at the earlier of the following:

(i) Prior to exceeding 16,500 CSN; or

(ii) Within 7,300 CIS after the effective date of this AD.

(3) For disks with less than 5,000 CSN on the effective date of this, remove from service affected disks prior to exceeding 12,300 CSN.

(b) This AD establishes a new cyclic retirement life limit for LPT stage 4 disks of 12,300 CSN. Thereafter, except as provided in paragraph (d) of this AD, no alternative cyclic retirement life limits may be approved for LPT stage 4 disks.

(c) For the purpose of this AD, the following definitions apply:

(1) An engine shop visit is defined as separation of a major, static flange.

(2) Piece-part exposure is when the affected part is completely disassembled in accordance with the disassembly instructions in the engine manual or section of the Instructions for Continued Airworthiness (ICA).

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on May 7, 1998.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–12915 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–45–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT8D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to Pratt & Whitney JT8D series turbofan engines, that would have required a one-time visual and eddy current inspection of certain stage 3–4 low pressure compressor (LPC) disks and stage 7–12 high pressure compressor (HPC) disks identified by part number and serial number, for arc burns in tie rod, shielding, and pressure balance holes, and, if necessary, repair of tie rod holes. That proposal was prompted by reports of improper fixturing during the electrolytic cleaning process of certain compressor disks at a certified repair station, Avial or Greenwich Air Services, currently GE Engine Services Dallas LP, certificate number RA1R445K of Dallas, Texas, that can result in damage to the disks in the form of arc burns. This action revises the proposed rule by adding a drawdown schedule for removal of affected disks. The actions specified by this proposed AD are intended to prevent compressor disk cracking from arc burns in tie rod holes, shielding holes, or pressure balance holes, which could lead to a fracture of a compressor disk, resulting in uncontained release of engine fragments, inflight engine shutdown, and airframe damage.

DATES: Comments must be received by July 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–ANE–45–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from GE Engine Services—Dallas LP, 9311 Reeves St., Dallas, TX 75235–2095. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Christopher Spinney, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7175, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–ANE–45–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–ANE–45–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT8D series turbofan engines, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on January 22,1998 (63 FR 3483). That NPRM would have required, at the next shop visit after the effective date of the AD, a one-time visual and eddy current inspection of compressor disks to detect arc burn damage and if appropriate, repair of damaged area. That NPRM was prompted by a report of certain low pressure compressor (LPC) and high pressure compressor (HPC) disks, installed on PW JT8D series turbofan engines, that were improperly fixtured during the electrolytic cleaning process at a certain repair station. That improper fixturing can lead to damage to compressor disks in the form of arc burns. Arc burns can degrade disk material properties and create a stress concentration that results in premature cracking of a disk and subsequent failure. That condition, if not corrected, could result in compressor disk cracking from arc burns in tie rod holes, shielding holes, or pressure balance holes, which could lead to a fracture of a compressor disk, resulting in uncontained release of engine fragments, inflight engine shutdown, and airframe damage.

Since the issuance of that NPRM, the FAA received a comment from the manufacturer stating that a drawdown schedule for removal of affected disks should be added to the proposed rule to maintain an acceptable level of safety, instead of requiring the inspection at the next shop visit. The FAA concurs and has added a drawdown schedule of 3,000 cycles in service (CIS) after the effective date of this AD, or the next shop visit, whichever occurs first.

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

There are a total of 1,388 compressor disks exposed to improper fixturing during the electrolytic cleaning process. The FAA estimates that 1,054 of these disks currently remain in service in the worldwide fleet, which represents approximately 210 engines. The FAA also estimates that 840 of the disks affected by the proposed AD are installed in engines installed on aircraft of U.S. registry. It will take approximately 30 work hours to accomplish the proposed actions per disk, and that the average labor rate is $60 per work hour. Required parts would cost approximately $23 per disk. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,531,320.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney: Docket No. 97–ANE–45–AD.

Applicability: Pratt & Whitney (PW) JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, –17AR, –209, –217, –217A, –217C, and –219 model turbofan engines which have a compressor disk installed identified by part number and serial number in Table 1 of this airworthiness directive (AD). These engines are installed on but not limited to Boeing 727 and 737 series, and McDonnell Douglas DC–9 and MD80 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent compressor disk cracking from arc burns in tie rod holes, shielding holes, or pressure balance holes, which could lead to a fracture of a compressor disk, resulting in uncontained release of engine fragments, inflight engine shutdown, and airframe damage, accomplish the following:

(a) Within 3,000 cycles in service (CIS) after the effective date of this AD, or the next shop visit, whichever occurs first, remove, visually inspect, eddy current inspect, and repair or replace with a serviceable part disks identified by part number (P/N) and serial number (S/N) in Table 1 of this AD in accordance with GE Engine Services—Dallas, LP, Engineering Bulletin (EB) JT8D–025, dated March 27, 1998. The next shop visit must occur by [insert 10 years from AD effective date].

TABLE 1

Stage	P/N	S/N
3	745803	H13469
3	745803	N48096
3	745803	N48361
3	745803	P77936
3	745803	P77942
3	745803	P78298
3	745803	P98041
3	745803	P98334
3	745803	R18766
3	745803	R18989
3	745803	R19227
3	745803	R73555
3	745803	R74156
4	745704	2A3332
4	745704	2A4258
4	745704	G51920
4	745704	H04195
4	745704	J46788
4	745704	J76639
4	745704	K11388
4	745704	K11483
4	745704	K12946
4	745704	K52509
4	745704	K53069
4	745704	L60864
4	745704	L61145
4	777704	B114AA0034
4	777704	B114AA0178
4	777704	B114AA0274
4	777704	BBDUA14597
4	777704	BBDUAH4675
4	777704	BBDUAH7390
4	777704	J77499
4	777704	J94590
4	777704	K43182
4	777704	L81216
4	777704	L81217
4	777704	L81218
4	777704	L81224
4	777704	L81688
4	777704	M40670
4	777704	M44376
4	777704	M44384
4	777704	M53723
4	777704	M53753
4	777704	M53810
4	777704	M53815
4	777704	N30898
4	777704	N30938
4	777704	N30943

TABLE 1—Continued

Stage	P/N	S/N
4	777704	N30947
4	777704	N30956
4	777704	N53261
4	777704	N53280
4	777704	N53284
4	777704	N53290
4	777704	N53296
4	777704	N53299
4	777704	N53309
4	777704	N53317
4	777704	N53324
4	777704	N53337
4	777704	N53340
4	777704	N53347
4	777704	N53355
4	777704	N53356
4	777704	N53361
4	777704	N53364
4	777704	N53366
4	777704	N53373
4	777704	N53388
4	777704	N53390
4	777704	N53392
4	777704	N53397
4	777704	N53402
4	777704	N53405
4	777704	N53407
4	777704	N53409
4	777704	N53411
4	777704	N53413
4	777704	N53416
4	777704	N53419
4	777704	N53426
4	777704	N53434
4	777704	N53437
4	777704	N53438
4	777704	N53449
4	777704	N63635
4	777704	N63637
4	777704	N63646
4	777704	N63651
4	777704	N63696
4	777704	N63704
4	777704	N63718
4	777704	N63736
4	777704	N63740
4	777704	N63745
4	777704	N63803
4	777704	P50018
4	777704	P50025
4	777704	P50036
4	777704	P50050
4	777704	P50054
4	777704	P50083
4	777704	P63990
4	777704	R21906
4	777704	R21930
4	777704	R21985
4	777704	R21991
4	777704	R41366
4	777704	R42431
4	777704	R56904
4	777704	R56911
4	777704	R56932
4	777704	R56948
4	777704	R75603
4	777704	R75635
4	777704	R75644
4	777704	S28269
4	777704	S28335
4	777704	S28336
4	777704	S65405

TABLE 1—Continued

Stage	P/N	S/N
4	777704	S65417
4	777704	S87903
4	777704	S91630
4	777704	T00466
4	777704	T48099
4	777704	T48101
4	777704	T48105
4	799504	K23796
4	799504	L61578
4	799504	L61597
4	799504	L89794
4	799504	M77214
4	799504	N06109
4	799504	N06248
4	799504	N06731
4	799504	N06908
4	799504	N06911
4	799504	N32484
4	799504	N32493
4	799504	N32514
4	799504	N33627
4	799504	N33880
4	799504	N34238
4	799504	N89280
4	799504	N89817
4	799504	N90599
4	799504	N90812
4	799504	N90849
4	799504	P45299
4	799504	P45435
4	799504	R23598
4	799504	R23753
4	799504	R24022
4	799504	R24310
4	799504	R24543
4	799504	S07095
4	799504	S07147
4	799504	S07164
4	799504	S07250
4	799504	S58162
4	799504	S58237
4	799504	T02774
4	799504	T02897
4	799504	T03020
4	799504	T03027
4	799504	T03038
4	799504	T03047
7	701407	7Z5379
7	766007	G11181
7	774407	B207AA0057
7	774407	B207AA0164
7	774407	B207AA0224
7	774407	B207AA0270
7	774407	B207AA0546
7	774407	B207AA0719
7	774407	B207AA0757
7	774407	B207AA0768
7	774407	B207AA0775
7	774407	B207AA0913
7	774407	BENCAH1914
7	774407	BENCAH4273
7	774407	BENCAJ5690
7	774407	BENCAK1601
7	774407	BENCAK5082
7	774407	BENCAK5701
7	774407	BENCAK6044
7	774407	BENCAK6586
7	774407	G78791
7	774407	H19147
7	774407	H75592
7	774407	J08985
7	774407	J17315

TABLE 1—Continued

Stage	P/N	S/N
7	774407	J17370
7	774407	J72117
7	774407	J93428
7	774407	J93669
7	774407	K78068
7	774407	K78149
7	774407	K78378
7	774407	L23953
7	774407	L71885
7	774407	L71922
7	774407	L72170
7	774407	L72261
7	774407	M38646
7	774407	M44626
7	774407	M60192
7	774407	M78767
7	774407	M83783
7	774407	M93487
7	774407	M93549
7	774407	N24007
7	774407	N24131
7	774407	N58891
7	774407	N58905
7	774407	N59040
7	774407	N70414
7	774407	N88273
7	774407	N88281
7	774407	N88306
7	774407	N93477
7	774407	N95003
7	774407	P14688
7	774407	P14851
7	774407	P16547
7	774407	P35320
7	774407	P35374
7	774407	P35475
7	774407	P54474
7	774407	P54594
7	774407	P60383
7	774407	P60383
7	774407	P81375
7	774407	P81382
7	774407	P86353
7	774407	R19478
7	774407	R31305
7	774407	R37450
7	774407	R46879
7	774407	R46934
7	774407	R57593
7	774407	R57744
7	774407	R57769
7	774407	R72169
7	774407	R72236
7	774407	R81458
7	774407	R81507
7	774407	R81527
7	774407	R81612
7	774407	R90895
7	774407	S05652
7	774407	S13843
7	774407	S14099
7	774407	S14103
7	774407	S36805
7	774407	S36885
7	774407	S36896
7	774407	S36994
7	774407	S36995
7	774407	S37166
7	774407	S37554
7	774407	T04613
7	774407	T04687
7	774407	T04739

TABLE 1—Continued

Stage	P/N	S/N
7	774407	T04806
7	774407	T04812
7	774407	T04814
7	774407	T04837
7	774407	T04843
7	774407	T04885
7	774407	T04903
7	774407	T04960
7	774407	T05000
7	774407	T05108
7	5006007–02	BENCAK9696
7	5006007–02	BENCAK9900
7	5006007–02	BENCAL0760
7	5006007–02	BENCAL1937
7	5006007–02	BENCAL4577
7	5006007–02	BENCAL5766
7	5006007–01	AA0297
7	5006007–01	B207AA0069
7	5006007–01	B207AA0135
7	5006007–01	B207AA0155
7	5006007–01	B207AA0172
7	5006007–01	B207AA0177
7	5006007–01	B207AA0354
7	5006007–01	B207AA0355
7	5006007–01	B207AA0421
7	5006007–01	B207AA0493
7	5006007–01	B207AA0533
7	5006007–01	B207AA0571
7	5006007–01	B207AA0684
7	5006007–01	B207AA0756
7	5006007–01	B207AA0811
7	5006007–01	BENCAH3454
7	5006007–01	BENCAH4003
7	5006007–02	BENCAH4004
7	5006007–01	BENCAH4371
7	5006007–01	BENCAH4373
7	5006007–01	BENCAH4794
7	5006007–01	BENCAH4797
7	5006007–01	BENCAH5400
7	5006007–01	BENCAH5401
7	5006007–01	BENCAJ8559
7	5006007–01	BENCAJ8585
7	5006007–01	BENCAJ8614
7	5006007–01	BENCAJ8626
7	5006007–01	BENCAJ8656
7	5006007–01	BENCAJ9106
7	5006007–01	BENCAK5959
7	5006007–01	BENCAK5963
7	5006007–01	BENCAK9770
7	5006007–01	BENCAK9771
7	5006007–01	BENCAL2683
7	5006007–01	BENCAL3622
7	5006007–01	BENCAL3931
7	5006007–01	K20260
7	5006007–01	K20499
7	5006007–01	K20543
7	5006007–01	N09043
7	5006007–01	N65077
7	5006007–01	N65107
7	5006007–01	N65132
7	5006007–01	N93173
7	5006007–01	N93193
7	5006007–01	P23185
7	5006007–01	P23236
7	5006007–01	P49794
7	5006007–01	P49835
7	5006007–01	P92551
7	5006007–01	P92580
7	5006007–01	R12660
7	5006007–01	R12670
7	5006007–01	R12710
7	5006007–01	R35504

TABLE 1—Continued

Stage	P/N	S/N
7	5006007–01	R35530
7	5006007–01	R36545
7	5006007–01	R43821
7	5006007–01	R54576
7	5006007–01	R54634
7	5006007–01	R79460
7	5006007–01	R79466
7	5006007–01	R92415
7	5006007–01	R92431
7	5006007–01	R92435
7	5006007–01	R92442
7	5006007–01	S11034
7	5006007–01	S11058
7	5006007–01	S11154
7	5006007–01	S11156
7	5006007–01	S11179
7	5006007–01	S11182
7	5006007–01	S11186
7	5006007–01	S11202
7	5006007–01	S11206
7	5006007–01	S56884
7	5006007–01	S56888
7	5006007–01	S56998
7	5006007–01	S57073
7	5006007–01	S57075
7	5006007–01	S57117
7	5006007–01	S57120
7	5006007–01	S57156
7	5006007–01	S57157
7	5006007–01	S57192
7	5006007–01	S57220
7	5006007–01	S57332
7	5006007–01	S57354
7	5006007–01	S57405
7	5006007–01	S57412
7	5006007–01	S57420
7	5006007–01	S57424
7	5006007–01	S57437
7	5006007–01	S57452
7	5006007–01	S57467
7	5006007–01	S57470
7	5006007–01	S57589
8	748608	B208AA0043
8	748608	BENCAK1564
8	748608	H50069
8	748608	H64474
8	748608	H64605
8	748608	J57591
8	748608	J94824
8	748608	M54652
8	748608	M54835
8	748608	N14526
8	748608	N84300
8	748608	P–28517
8	748608	P26161
8	748608	P28493
8	748608	P28504
8	748608	P28505
8	748608	P28511
8	748608	P28542
8	748608	P28614
8	748608	P98885
8	748608	S01079
8	748608	S01090
8	748608	S50742
8	748608	S78049
8	748608	S78056
8	748608	S78100
8	787008	J76875
8	787008	K12869
8	787008	M77087
8	787008	N06806

TABLE 1—Continued

Stage	P/N	S/N
8	787008	N32406
8	787008	N34151
8	787008	N89336
8	787008	N89554
8	787008	N90392
8	787008	N90682
8	787028	N89693
8	787208	AA0676
8	787208	B07691
8	787208	B228AA0169
8	787208	B228AA0242
8	787208	B228AA0288
8	787208	B228AA0389
8	787208	B228AA0426
8	787208	B228AA0537
8	787208	B228AA0576
8	787208	B228AA0638
8	787208	B228AA0641
8	787208	B228AA0746
8	787208	B228AA0859
8	787208	B228AA0866
8	787208	B228AA0878
8	787208	B228AA0905
8	787208	B228AA1070
8	787208	B228AA1117
8	787208	BENCAH0302
8	787208	BENCAH1584
8	787208	BENCAH3448
8	787208	BENCAJ5729
8	787208	BENCAJ8175
8	787208	BENCAJ8767
8	787208	BENCAJ8773
8	787208	BENCAJ8790
8	787208	BENCAJ9142
8	787208	BENCAK4678
8	787208	BENCAK4771
8	787208	BENCAK5470
8	787208	BENCAK6156
8	787208	BENCAK6162
8	787208	BENCAK6398
8	787208	BENCAK8259
8	787208	BENCAK9252
8	787208	BENCAK9261
8	787208	BENCAL2604
8	787208	BENCAL2642
8	787208	BENCAL4344
8	787208	BENCAL7699
8	787208	BENCAL9217
8	787208	J76954
8	787208	K11762
8	787208	K12737
8	787208	K12765
8	787208	L89874
8	787208	M41582
8	787208	M41586
8	787208	M41918
8	787208	M76995
8	787208	M77005
8	787208	M77119
8	787208	N06396
8	787208	N33501
8	787208	N33769
8	787208	N33774
8	787208	N33776
8	787208	N33784
8	787208	N34183
8	787208	N34207
8	787208	N89068
8	787208	N89079
8	787208	N89082
8	787208	N89087
8	787208	N89089

TABLE 1—Continued

Stage	P/N	S/N
8	787208	N89404
8	787208	N89409
8	787208	N89699
8	787208	N89702
8	787208	N89708
8	787208	N89895
8	787208	N89898
8	787208	N90251
8	787208	N90344
8	787208	N90990
8	787208	P43853
8	787208	P43872
8	787208	P43891
8	787208	P43956
8	787208	P43986
8	787208	P44338
8	787208	P45405
8	787208	R23233
8	787208	R23836
8	787208	R23873
8	787208	R24174
8	787208	R24227
8	787208	R24677
8	787208	R24739
8	787208	R24816
8	787208	R24824
8	787208	R91601
8	787208	R91825
8	787208	R91870
8	787208	R91947
8	787208	R92114
8	787208	R92308
8	787208	S07578
8	787208	S07629
8	787208	S07758
8	787208	S07768
8	787208	S07775
8	787208	S39269
8	787208	S39468
8	787208	S39513
8	787208	S39638
8	787208	S39655
8	787208	S39663
8	787208	S39753
8	787208	S39822
8	787208	S39837
8	787208	S39951
8	787208	S39973
8	787208	S39995
8	787208	S40027
8	787208	S40038
8	787208	S40077
8	787208	S40079
8	787208	S40095
8	789608	H03942
8	789608	J21516
8	792038	B228AA0039
8	792038	BENCAJ8836
8	797938	B228AA0487
8	797938	B228AA1034
8	797938	BENCAJ8910
8	797938	BENCAL5921
8	797938	N06290
8	797938	N33267
8	797938	N90703
8	797938	N90970
8	797938	S70436
8	797938	T03512
8	5005008–01	T03421
8	5005808–01	B228AA0052
8	5005808–01	B228AA0287
8	5005808–01	B228AA0405

TABLE 1—Continued

Stage	P/N	S/N
8	5005808–01	B228AA0490
8	5005808–01	B228AA0519
8	5005808–01	BENCAH1577
8	5005808–01	L60763
8	5005808–01	M77630
8	5005808–01	N06193
8	5005808–01	N32395
8	5005808–01	N32524
8	5005808–01	N33073
8	5005808–01	N33304
8	5005808–01	N33466
8	5005808–01	N89447
8	5005808–01	N89464
8	5005808–01	P44800
8	5005808–01	P45226
8	5005808–01	R24458
8	5005808–01	R91359
8	5005808–01	R91787
8	5005808–01	S07967
8	5005808–01	S70327
8	5005808–01	S70429
8	5005808–01	S70463
8	5005808–01	S70494
8	5005808–01	S70520
8	5005808–01	T03317
8	5005808–01	T03452
8	5005808–01	T03476
8	5005808–01	T03506
8	5005808–01	T03549
8	5006008–01	R24001
9	701509	5A1936
9	701509	J89101
9	701509	L56782
9	701509	L85804
9	701509	M09404
9	701509	M73608
9	701509	M84236
9	701509	N02058
9	701509	N02998
9	701509	N209AA0242
9	701509	N209AA0246
9	701509	N209AA0323
9	701509	N209AA0418
9	701509	N209AA0634
9	701509	N22582
9	701509	N56942
9	701509	N56952
9	701509	N79878
9	701509	N97637
9	701509	N97707
9	701509	N98354
9	701509	N99323
9	701509	NENCAH0592
9	701509	NENCAH0697
9	701509	NENCAH0883
9	701509	NENCAH1173
9	701509	NENCAH1422
9	701509	NENCAH1432
9	701509	P11303
9	701509	P11463
9	701509	P12707
9	701509	P52176
9	701509	P52596
9	701509	P52608
9	701509	P97654
9	701509	P97704
9	701509	P98673
9	701509	R18109
9	701509	R18342
9	701509	R18385
9	701509	R45763
9	701509	R45850

TABLE 1—Continued

Stage	P/N	S/N
9	701509	R46297
9	701509	R46394
9	701509	R46403
9	701509	R72835
9	701509	R72839
9	701509	R72846
9	701509	R73002
9	701509	R74484
9	701509	S00704
9	701509	S00765
9	701509	S00824
9	701509	S00886
9	701509	S00909
9	701509	S00910
9	701509	S18837
9	701509	S18941
9	701509	S19027
9	701509	S50340
9	701509	S70059
9	701509	S77627
9	701509	S77671
9	701509	S77784
9	701509	S77809
9	701509	T18893
9	701509	T18909
9	701509	T27458
9	701509	T27587
9	739509	H17622
9	772509	K23758
9	772509	K24989
9	772509	K86136
9	772509	L15428
9	772509	M40393
9	772509	M40397
9	772509	N42380
9	772509	N56529
9	772509	N79955
9	772509	N79970
9	772509	N80784
9	772509	N96815
9	772509	N96816
9	772509	N96904
9	772509	N96905
9	772509	N97800
9	772509	N97806
9	772509	N99352
9	772509	N99353
9	772509	N99362
9	772509	N99367
9	772509	N99368
9	772509	N99376
9	772509	P11398
9	772509	P11407
9	772509	P11411
9	772509	P11414
9	772509	P11419
9	772509	P12231
9	772509	P76976
9	772509	P76987
9	772509	P76990
9	772509	P76992
9	772509	P76994
9	772509	R17787
9	772509	S01222
9	772509	S02183
9	772509	S50825
9	798509	AA0579
9	798509	B209AA0068
9	798509	B209AA0086
9	798509	B209AA0100
9	798509	B209AA0103
9	798509	B209AA0105

TABLE 1—Continued

Stage	P/N	S/N
9	798509	B209AA0185
9	798509	B209AA0261
9	798509	B209AA0304
9	798509	B209AA0364
9	798509	B209AA0420
9	798509	B209AA0429
9	798509	B209AA0434
9	798509	B209AA0461
9	798509	B209AA0518
9	798509	B209AA0542
9	798509	B209AA0551
9	798509	B209AA0619
9	798509	B209AA0632
9	798509	B209AA0649
9	798509	B209AA0707
9	798509	BENCAH2176
9	798509	BENCAJ6152
9	798509	BENCAJ9319
9	798509	BENCAJ9337
9	798509	BENCAJ9348
9	798509	BENCAJ9359
9	798509	BENCAJ9366
9	798509	BENCAK0166
9	798509	BENCAK4404
9	798509	BENCAK4409
9	798509	BENCAL0725
9	798509	BENCAL2575
9	798509	BENCAL4022
9	798509	BENCAL6238
9	798509	N03324
9	798509	N42399
9	798509	N42401
9	798509	N56700
9	798509	N97809
9	798509	N99501
9	798509	P53159
9	798509	P77576
9	798509	R72583
9	798509	R73591
9	798509	R74285
9	798509	S02121
9	798509	S02165
9	798509	S79341
9	798509	S79364
9	798509	S79409
9	798509	S79414
9	798509	S94376
9	798509	S94384
9	798509	S94391
10	770510	G80186
10	772510	B210AA0003
10	772510	B210AA0024
10	772510	B210AA0062
10	772510	B210AA0128
10	772510	B210AA0263
10	772510	B210AA0339
10	772510	B210AA0398
10	772510	B210AA0520
10	772510	B210AA0538
10	772510	B210AA0549
10	772510	B210AA0563
10	772510	B210AA0619
10	772510	B210AA0684
10	772510	B210AA0727
10	772510	B210AA0744
10	772510	B210AA0785
10	772510	B210AA0860
10	772510	B210AA0862
10	772510	B210AA0956
10	772510	B210AA0984
10	772510	B210AA1073
10	772510	B210AA1081

TABLE 1—Continued

Stage	P/N	S/N
10	772510	B210AA1137
10	772510	BENCAH1958
10	772510	BENCAH2165
10	772510	BENCAH2280
10	772510	BENCAJ5741
10	772510	BENCAJ9159
10	772510	BENCAJ9705
10	772510	BENCAJ9757
10	772510	BENCAJ9767
10	772510	BENCAJ9773
10	772510	BENCAJ9805
10	772510	BENCAK4597
10	772510	BENCAK5154
10	772510	BENCAK5350
10	772510	BENCAK5735
10	772510	BENCAK5773
10	772510	BENCAK6465
10	772510	BENCAK9082
10	772510	BENCAK9123
10	772510	BENCAK9429
10	772510	BENCAK9434
10	772510	BENCAL1600
10	772510	BENCAL1635
10	772510	BENCAL2434
10	772510	BENCAL3279
10	772510	BENCAL5558
10	772510	BENCAL6141
10	772510	BENCAL6373
10	772510	H17769
10	772510	H32904
10	772510	H34713
10	772510	H57950
10	772510	H76378
10	772510	K56398
10	772510	K66132
10	772510	K86040
10	772510	L15008
10	772510	L32061
10	772510	L55910
10	772510	L56859
10	772510	L86006
10	772510	M10588
10	772510	M10987
10	772510	M39587
10	772510	M39591
10	772510	M49011
10	772510	M49358
10	772510	M49359
10	772510	M73918
10	772510	M86490
10	772510	N02251
10	772510	N02274
10	772510	N11091
10	772510	N22833
10	772510	N42134
10	772510	N56280
10	772510	N57181
10	772510	N57382
10	772510	N57418
10	772510	N57437
10	772510	N80225
10	772510	N80703
10	772510	N80716
10	772510	N80718
10	772510	N81110
10	772510	N81114
10	772510	N81474
10	772510	N97025
10	772510	N97067
10	772510	N97527
10	772510	N97553
10	772510	N97574

TABLE 1—Continued

Stage	P/N	S/N
10	772510	N97591
10	772510	N97832
10	772510	N98539
10	772510	N98750
10	772510	N98764
10	772510	N98768
10	772510	N98798
10	772510	P11004
10	772510	P11017
10	772510	P11029
10	772510	P11039
10	772510	P11087
10	772510	P11094
10	772510	P11101
10	772510	P11562
10	772510	P11575
10	772510	P11834
10	772510	P12009
10	772510	P12612
10	772510	P12615
10	772510	P12645
10	772510	P12648
10	772510	P51452
10	772510	P51454
10	772510	P51833
10	772510	P51883
10	772510	P52238
10	772510	P53116
10	772510	P53207
10	772510	P53327
10	772510	P76886
10	772510	P76891
10	772510	P77070
10	772510	P77161
10	772510	P77180
10	772510	P77423
10	772510	P77618
10	772510	P77663
10	772510	P77668
10	772510	P77744
10	772510	P77752
10	772510	P97017
10	772510	P98117
10	772510	P98258
10	772510	P98840
10	772510	R18022
10	772510	R18124
10	772510	R18611
10	772510	R18665
10	772510	R19275
10	772510	R46329
10	772510	R46679
10	772510	R72606
10	772510	R72615
10	772510	R72617
10	772510	R72874
10	772510	R73345
10	772510	R74396
10	772510	S01267
10	772510	S01277
10	772510	S01369
10	772510	S01501
10	772510	S01631
10	772510	S01680
10	772510	S19280
10	772510	S19293
10	772510	S19294
10	772510	S19298
10	772510	S19328
10	772510	S19440
10	772510	S19447
10	772510	S19458

TABLE 1—Continued

Stage	P/N	S/N
10	772510	S19467
10	772510	S19486
10	772510	S19512
10	772510	S51089
10	772510	S51144
10	772510	S51176
10	772510	S51210
10	772510	S78237
10	772510	S78294
10	772510	S78298
10	772510	S78318
10	772510	S78439
10	772510	S78464
10	772510	S78511
10	772510	S78623
10	772510	S78642
10	772510	S78724
10	772510	T19014
10	772510	T19091
10	772510	T19152
10	772510	T19169
10	772510	T28070
10	772510	T28091
10	772510	T28136
10	772510	T28138
10	772510	T49026
10	772510	T49044
10	772510	T49055
10	772510	T49068
10	772510	T49089
11	701411	G29388
11	701411	G43952
11	769611	H16901
11	772511	AA0065
11	772511	B211AA0047
11	772511	B211AA0157
11	772511	B211AA0171
11	772511	B211AA0263
11	772511	B211AA0301
11	772511	B211AA0349
11	772511	B211AA0356
11	772511	B211AA0517
11	772511	B211AA0529
11	772511	B211AA0599
11	772511	B211AA0622
11	772511	B211AA0624
11	772511	B211AA0705
11	772511	B211AA0798
11	772511	B211AA0823
11	772511	B211AA0945
11	772511	B211AA1004
11	772511	B211AA1107
11	772511	B211AA1166
11	772511	B211AA1212
11	772511	B211AA1292
11	772511	B211AA1360
11	772511	BENCAH0264
11	772511	BENCAH2171
11	772511	BENCAH5424
11	772511	BENCAJ8130
11	772511	BENCAK0910
11	772511	BENCAK7121
11	772511	BENCAK7336
11	772511	BENCAK7407
11	772511	BENCAK7412
11	772511	BENCAK7417
11	772511	BENCAK7523
11	772511	BENCAL2881
11	772511	BENCAL2959
11	772511	BENCAL3030
11	772511	H58238
11	772511	H99450

TABLE 1—Continued

Stage	P/N	S/N
11	772511	J24528
11	772511	J68900
11	772511	J88334
11	772511	K24665
11	772511	K35705
11	772511	K85911
11	772511	L15671
11	772511	L30512
11	772511	L84603
11	772511	L84967
11	772511	M11198
11	772511	M11208
11	772511	M40116
11	772511	M49492
11	772511	M49540
11	772511	M49551
11	772511	M61349
11	772511	M61810
11	772511	M61821
11	772511	M61827
11	772511	M73414
11	772511	M86423
11	772511	M86943
11	772511	M87075
11	772511	N02874
11	772511	N03522
11	772511	N21358
11	772511	N22738
11	772511	N41160
11	772511	N41282
11	772511	N41646
11	772511	N41748
11	772511	N42587
11	772511	N42774
11	772511	N56399
11	772511	N56596
11	772511	N57323
11	772511	N57878
11	772511	N57899
11	772511	N57939
11	772511	N57953
11	772511	N80541
11	772511	N80554
11	772511	N80580
11	772511	N81408
11	772511	N93700
11	772511	N96929
11	772511	N96947
11	772511	N96955
11	772511	N97354
11	772511	N97368
11	772511	N97956
11	772511	N97977
11	772511	N98242
11	772511	N98245
11	772511	N98573
11	772511	N98587
11	772511	N98612
11	772511	N98949
11	772511	N98963
11	772511	N98974
11	772511	N98976
11	772511	N98981
11	772511	N98985
11	772511	N99526
11	772511	N99535
11	772511	N99551
11	772511	N99553
11	772511	N99564
11	772511	N99590
11	772511	P03620
11	772511	P11615

TABLE 1—Continued

Stage	P/N	S/N
11	772511	P11637
11	772511	P11959
11	772511	P11981
11	772511	P12385
11	772511	P12387
11	772511	P12399
11	772511	P12743
11	772511	P12777
11	772511	P12930
11	772511	P51979
11	772511	P52109
11	772511	P52732
11	772511	P52903
11	772511	P52910
11	772511	P76731
11	772511	P76820
11	772511	P76832
11	772511	P76857
11	772511	P77637
11	772511	P77642
11	772511	P97786
11	772511	R05382
11	772511	R05539
11	772511	R05747
11	772511	R29690
11	772511	R29884
11	772511	R30070
11	772511	R30119
11	772511	R30137
11	772511	R30157
11	772511	R30194
11	772511	R30226
11	772511	R30258
11	772511	R30313
11	772511	R30429
11	772511	R30504
11	772511	R30534
11	772511	R30617
11	772511	R30625
11	772511	R30808
11	772511	R30810
11	772511	R30906
11	772511	R30941
11	772511	R30993
11	772511	R31009
11	772511	R31035
11	772511	R31073
11	772511	R31118
11	772511	R46248
11	772511	R46361
11	772511	S03667
11	772511	S03741
11	772511	S03745
11	772511	S03805
11	772511	S04156
11	772511	S04451
11	772511	S04460
11	772511	S04473
11	772511	S04542
11	772511	S04543
11	772511	S04557
11	772511	S04564
11	772511	S04582
11	772511	S04649
11	772511	S80373
11	772511	S80389
11	772511	S80465
11	772511	S80547
11	772511	S80588
11	772511	S80617
11	772511	S80682
11	772511	S80740

TABLE 1—Continued

Stage	P/N	S/N
11	772511	S80765
11	772511	T22044
11	772511	T22052
11	772511	T22099
11	772511	T22202
11	772511	T22236
11	772511	T22261
11	772511	T22353
11	772511	T22378
11	772511	T22395
11	772511	T22405
11	772511	T22521
11	772511	T22533
11	772511	T22593
11	772511	T22608
11	772511	T22653
11	772511	T22797
11	772511	T22835
11	772511	T22873
11	772511	T22895
11	772511	T22949
11	772511	T23006
12	717312	2B1946
12	717312	3A7441
12	772512	B212AA0565
12	772512	B212AA0864
12	772512	H58261
12	772512	H58448
12	772512	J23046
12	772512	J68527
12	772512	J89283
12	772512	K04097
12	772512	K23952
12	772512	K23992
12	772512	K35819
12	772512	K55628
12	772512	K55951
12	772512	K56079
12	772512	K66470
12	772512	K66500
12	772512	K86442
12	772512	K86447
12	772512	L15502
12	772512	L30899
12	772512	L31589
12	772512	L32003
12	772512	L56276
12	772512	L56294
12	772512	L56303
12	772512	L56308
12	772512	L56886
12	772512	L85095
12	772512	L86236
12	772512	M10233
12	772512	M10966
12	772512	M40081
12	772512	M49574
12	772512	M49665
12	772512	M73392
12	772512	M84838
12	772512	N02466
12	772512	N03990
12	772512	N21261
12	772512	N22069
12	772512	N22894
12	772512	N41128
12	772512	N41249
12	772512	N41717
12	772512	N42236
12	772512	N42871
12	772512	N56325
12	772512	N57451

TABLE 1—Continued

Stage	P/N	S/N
12	772512	N58072
12	772512	N58127
12	772512	N80601
12	772512	N81044
12	772512	N81173
12	772512	N81187
12	772512	N97079
12	772512	N97083
12	772512	N97109
12	772512	N97384
12	772512	N97438
12	772512	N97455
12	772512	N97457
12	772512	N97893
12	772512	N97916
12	772512	N98152
12	772512	N98162
12	772512	N98654
12	772512	N98657
12	772512	N98680
12	772512	N98691
12	772512	N99016
12	772512	N99025
12	772512	N99049
12	772512	N99057
12	772512	N99094
12	772512	N99125
12	772512	P11154
12	772512	P11179
12	772512	P11183
12	772512	P11193
12	772512	P11252
12	772512	P11678
12	772512	P11699
12	772512	P11877
12	772512	P11879
12	772512	P11909
12	772512	P12244
12	772512	P12277
12	772512	P12493
12	772512	P12519
12	772512	P51414
12	772512	P52139
12	772512	P52409
12	772512	P52520
12	772512	P52871
12	772512	P53141
12	772512	P53351
12	772512	P53396
12	772512	P72298
12	772512	P76702
12	772512	P76921
12	772512	P76931
12	772512	P77096
12	772512	P77294
12	772512	P77338
12	772512	P77695
12	772512	P77796
12	772512	P78510
12	772512	P97315
12	772512	R17703
12	772512	R17746
12	772512	R18201
12	772512	R18319
12	772512	R18589
12	772512	R19042
12	772512	R45067
12	772512	R45829
12	772512	R46100
12	772512	R46108
12	772512	R46121
12	772512	R46707

TABLE 1—Continued

Stage	P/N	S/N
12	772512	R52615
12	772512	R72811
12	772512	R73024
12	772512	R73783
12	772512	R74357
12	772512	S01858
12	772512	S01860
12	772512	S01914
12	772512	S01923
12	772512	S01949
12	772512	S01969
12	772512	S01971
12	772512	S01980
12	772512	S01994
12	772512	S02002
12	772512	S02007
12	772512	S19593
12	772512	S19644
12	772512	S19843
12	772512	S51370
12	772512	S51437
12	772512	S51514
12	772512	S51519
12	772512	S51560
12	772512	S51571
12	772512	S78825
12	772512	S78841
12	798512	B212AA0009
12	798512	B212AA0045
12	798512	B212AA0051
12	798512	B212AA0060
12	798512	B212AA0073
12	798512	B212AA0077
12	798512	B212AA0082
12	798512	B212AA0142
12	798512	B212AA0155
12	798512	B212AA0290
12	798512	B212AA0293
12	798512	B212AA0361
12	798512	B212AA0428
12	798512	B212AA0586
12	798512	B212AA0618
12	798512	B212AA0647
12	798512	B212AA0735
12	798512	B212AA0747
12	798512	B212AA0942
12	798512	B212AA0974
12	798512	B212AA1031
12	798512	B212AA1062
12	798512	B212AA1098
12	798512	B212AA1173
12	798512	BENCAH1931
12	798512	BENCAH4104
12	798512	BENCAJ4925
12	798512	BENCAJ6158
12	798512	BENCAJ7821
12	798512	BENCAJ8115
12	798512	BENCAJ9478
12	798512	BENCAJ9497
12	798512	BENCAJ9503
12	798512	BENCAJ9530
12	798512	BENCAJ9617
12	798512	BENCAJ9673
12	798512	BENCAK0455
12	798512	BENCAK2377
12	798512	BENCAK4552
12	798512	BENCAK5787
12	798512	BENCAK8605
12	798512	BENCAK9227
12	798512	BENCAL1655
12	798512	BENCAL2487
12	798512	BENCAL4173

TABLE 1—Continued

Stage	P/N	S/N
12	798512	BENCAL6328
12	798512	BENCAL6602
12	798512	M86993
12	798512	N42703
12	798512	N42708
12	798512	N57617
12	798512	N57629
12	798512	N80087
12	798512	N80088
12	798512	N98138
12	798512	N99136
12	798512	N99144
12	798512	P53305
12	798512	P76909
12	798512	P76916
12	798512	P77722
12	798512	P78317
12	798512	R17334
12	798512	R46556
12	798512	R46562
12	798512	R73201
12	798512	R74214
12	798512	S02217
12	798512	S02254
12	798512	S51853
12	798512	S79575
12	798512	S94530
12	798512	S94534
12	798512	S94538
12	798512	S94539
12	798512	S94569
12	798512	S94579
12	798512	S94590
12	798512	S94615
12	798512	T19187
12	798512	T19213
12	798512	T19220
12	798512	T19242
12	798512	T19277
12	798512	T19292
12	798512	T19314
12	798512	T28638
12	798512	T43059

(b) For the purpose of this AD, a shop visit is defined as an engine removal, where engine maintenance entails separation of pairs of major mating engine flanges or the removal of a disk, hub, or spool regardless of other planned maintenance except where the maintenance performed is being done in lieu of performing the maintenance on wing.

(c) The accomplishment of the inspections and repairs specified in this AD must be performed at GE Engine Services—Dallas, LP., certificate number RA1R445K of Dallas, Texas. Operators wishing to use another facility to perform the required inspections and repairs must apply for an alternative method of compliance in accordance with paragraph (e) of this AD.

(d) Report the following information on a monthly basis to the Manager of the Engine Certification Office, FAA, 12 New England Executive Park, Burlington, MA 01803–5299; fax (781) 238–7199, Internet: Mark.C.Fulmer@faa.dot.gov. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056:

(1) S/N of engines inspected in accordance with paragraph (a) of this AD.

(2) S/N of engines found with arc burns and approximate size of the arc burn.

(3) S/N of engines repaired in accordance with paragraph (a) of this AD.

(4) Hours and CIS since last shop visit and total hours and CIS of disks inspected in accordance with paragraph (a) of this AD.

(5) Report to the Manager of the Engine Certification Office, within two business days of finding one of the following conditions as a result of inspecting a disk in accordance with paragraph (a) of this AD:

(i) A crack depth of more than 5 mils.

(ii) More than 2 tie rod holes with cracks.

(iii) Arc burn depth beyond 9 mils.

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Issued in Burlington, Massachusetts, on May 7, 1998.

Thomas A. Boudreau,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–12918 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–61–AD]

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 369D, 369E, 369FF, 369H, MD500N, and MD600N Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Helicopter Systems (MDHS) Model 369D, 369E, 369FF, 369H, MD500N, and MD600N helicopters. This proposal would require a one-time visual inspection of certain input shaft coupling assemblies for pitting. This proposal is prompted by three operators' reports of discovering pitting on the internal spline teeth. The actions specified by the proposed AD are intended to prevent failure of the spline teeth in the input shaft coupling assembly, loss of drive to the main rotor system, and subsequent loss of control of the helicopter.

DATES: Comments must be received by July 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–61–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Conze, Aerospace Engineer, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California, 90712, telephone (562) 627–5261, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 97–SW–61–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–61–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

This document proposes the adoption of a new airworthiness directive (AD) that is applicable to MDHS Model 369D, 369E, 369FF, 369H, MD500N, and MD600N helicopters. This proposal would require a one-time visual inspection of certain input shaft coupling assemblies for pitting below the solid film lubricant layer in the spline area. This proposal is prompted by three operators' reports of discovering pitting on the internal spline teeth. The actions specified by the proposed AD are intended to prevent failure of the spline teeth in the input shaft coupling assembly, loss of drive to the main rotor system, and subsequent loss of control of the helicopter.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHS Model 369D, 369E, 369FF, 369H, MD500N, and MD600N helicopters of the same type design, the proposed AD would require a one-time visual inspection of affected input shaft coupling assemblies for pitting below the solid film lubricant layer in the spline area.

The FAA estimates that 82 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $638 per coupling assembly. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $67,076 if the coupling assembly is replaced in all 82 helicopters.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action"

under Executive Order 12866; (2) is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

McDonnell Douglas Helicopter Systems: Docket No. 97–SW–61–AD.

Applicability: Model 369D, 369E, 369FF, 369H, MD500N, and MD600N helicopters, with input shaft coupling assemblies, part number (P/N) 369F5133–1, serial number (S/N) 030829–0126 through 030829–0207, installed on main transmission, P/N 369F5100–503, and on overrunning clutch, P/N 369F5450, certificated in any category.

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

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

To prevent failure of the spline teeth in each input shaft coupling assembly (coupling assembly), loss of drive to the main rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Visually inspect the coupling assemblies, P/N 369F5133–1, installed on main transmission, P/N 369F5100–503, and on overrunning clutch, P/N 369F5450, for pitting under the solid film lubricant in the spline area of the coupling.

(b) If there is pitting in the splines, replace the coupling assembly with an airworthy coupling assembly, P/N 369F5133–1, that has been inspected as required by paragraph (a) of this AD.

Note 2: Boeing Service Bulletin SB369H–240, SB369E–085, SB500N–013, SB369D–192, SB369F–072, SB600N–003, dated September 26, 1997, pertains to this AD.

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

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

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

Issued in Fort Worth, Texas, on May 7, 1998.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–12936 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANM–05]

Proposed Establishment of Class E Airspace, Moses Lake, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This proposal would establish a Class E surface area at Grant County Airport, Moses Lake, WA. The intended effect of this action is to provide controlled airspace between the surface and the en route phase of flight when the air traffic control tower is closed.

DATES: Comments must be received on or before June 29, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 98–ANM–05, 1601 Lind Avenue SW, Renton, Washington 98055–4056.

The official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 98–ANM–05, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–ANM–05." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above, both before and after the closing date, for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) to establish Class E airspace at Grant County Airport, Moses Lake, WA. The commissioning of the Automated Surface Observing system (ASOS) qualifies the Grant County Airport for a Class E surface area. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This proposal would allow controlled airspace between the surface and en route environment when the air traffic control tower is closed.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designated as a surface area are published in Paragraph 6002 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 Class E airspace designated as a surface area for an airport.

* * * * *

ANM WA E2 Moses Lake, WA [New]

Grant County Airport, Moses Lake, WA
(Lat. 47°12'28"N, long. 119°19'13")

That airspace extending upward from the surface within a 5.7-mile radius of the Grant County Airport, excluding that airspace within an area bounded by a line beginning at lat. 47°11'31"N, long. 119°10'59"W; to lat. 47°09'59"N, long. 119°14'55"W; to lat 47°07'34"N, long. 119°14'55"W; thence counterclockwise via a 5.7-mile radius of the Grant County Airport to the point of beginning. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Seattle, Washington, on May 5, 1998.

Joe E. Gingles,

Acting Assistant Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 98–12998 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–31]

Proposed Establishment of Class E Airspace; Wilmington Clinton Field, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Wilmington Clinton Field, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 21 has been developed for Wilmington Clinton Field. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to create controlled airspace for Wilmington Clinton Field.

DATES: Comments must be received on or before July 6, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–31, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related

aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–31." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 112A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Wilmington Clinton Field, OH, to accommodate aircraft executing the proposed GPS Rwy 21 SIAP, Wilmington Clinton Field by creating controlled airspace for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 206(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 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL OH 35 Wilmington Clinton Field, OH [New]

Wilmington Clinton Field, OH
(Lat. 39°30'10" N., long. 83°51'47".)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Wilmington Clinton Field, excluding that airspace within the Wilmington, OH, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12995 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–26]

Proposed Modification of Class E Airspace; Faribault, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace Faribault, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 30 has been developed for Faribault Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action would increase the radius of the existing controlled airspace for Faribault Municipal Airport.

DATES: Comments must be received on or before July 6, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–26, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Admiration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments are they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–26." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Faribault, MN, the accommodate aircraft executing the proposed GPS Rwy 30 SIAP at Faribault Municipal Airport by increasing the radius of the existing controlled for the airport. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. the area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. the incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10,1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL MN E Faribault, MN [Revised]

Faribault Municipal Airport, MN
(Lat. 44°19'29" N, long. 93°18'39" W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Faribaut Municipal airport and within 1.1 miles each side of the 200° bearing from the Faribaut Municipal airport, extending from the 6.6-mile radius to 7.8 miles southwest of the airport, excluding that airspace within the Owatonna, MN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on May 4, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–12994 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AEA–07]

Proposed Amendment to Class E Airspace; Farmville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Farmville, VA. The development of a new Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Farmville Municipal Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before June 15, 1998.

ADDRESSES: Send Comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 98–AEA–07, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520,

F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT:

Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposal rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AEA–07." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amended the Class E airspace area at Farmville, VA. GPS RWY 21 SIAP has been developed for the Farmville Municipal Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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 Federal Aviation Administration Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, is proposed to be amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AEA VA E5 Farmville, VA [Revised]

Farmville Municipal Airport, VA
(lat. 37°21'22" N., long. 78°26'19" W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Farmville Municipal Airport

* * * * *

Issued in Jamaica, New York, on May 6, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–12982 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. 97N–0524]

RIN 0910–AA43

Food Labeling: Warning and Notice Statements; Labeling of Juice Products; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the Federal Register of April 24, 1998 (63 FR 20486). The document would require warning statements on packaged fruit and vegetable juice products that have not been processed to destroy pathogenic microorganisms that may be present. The document was published with some errors. This document corrects those errors.

DATES: Submit written comments by May 26, 1998.

FOR FURTHER INFORMATION CONTACT: Geraldine A. June, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

SUPPLEMENTARY INFORMATION: In FR Doc. 98–11026, beginning on page 20486 in the Federal Register of Friday, April 24, 1998, the following corrections are made:

1. On page 20489, in the third column, in the third full paragraph, in line three, "that" should read "which".

2. On page 20490, in the third column, in the first paragraph, in line three, "that" should read "which".

§ 101.17 [Corrected]

3. On page 20493, in § 101.17(g)(2), in the first column, in the third line, "(g)(7)" should read "(g)(6)".

Dated: May 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–12899 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 861]

RIN 1512–AB70

Net Contents Statement on Wine Labels (95R–054P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: Based on a petition it has received, the Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter may be expressed on the label in centiliters (cl) as an alternative to milliliters (ml). ATF believes that the proposed regulations provide industry members with greater flexibility in labeling their wines, while ensuring the consumer is adequately informed as to the net contents of the product.

The proposed amendments are part of the Administration's efforts to reinvent government by reducing regulatory burdens and streamlining requirements.

DATES: Written comments must be received on or before August 13, 1998.

ADDRESSES: Send written comments to: Chief, Regulations Division; Bureau of Alcohol, Tobacco and Firearms; P.O. Box 50221; Washington, DC 20091–0221; ATTN: Notice No. .

FOR FURTHER INFORMATION CONTACT: James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, D.C. 20226 (202–927–8230).

SUPPLEMENTARY INFORMATION:

Background

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), vests broad authority in the Director of ATF, as the delegate of the Secretary of the Treasury, to prescribe regulations intended to prevent deception of the consumer and to provide the consumer with adequate information as to, among other things, the net contents of the product. Regulations which implement the provisions of section 105(e), as they relate to wine, are set forth in title 27, Code of Federal Regulations (CFR), part 4.

Section 4.32(b) provides, in part, that a statement of net contents must appear on the label of all containers of wine in accordance with § 4.37. Section 4.37 provides that the net contents of wine for which a metric standard of fill is prescribed must be stated on the label in the same manner and form as set forth in the standard of fill. The authorized metric standards of fill for American and imported wine, for sale in interstate commerce within the United States, are set forth in § 4.73 as follows:

3 liters
1.5 liters
1 liter
750 milliliters
500 milliliters
375 milliliters
187 milliliters
100 milliliters
50 milliliters

As provided in § 4.37(a), the net contents of wine for which no standard of fill is prescribed, e.g., sake, must be stated in liters and in decimal portions of a liter for quantities larger than one liter, and in milliliters for quantities of less than one liter.

Pursuant to § 4.32(b)(2), if the net contents of the wine is an authorized standard of fill, e.g., 750 milliliters, the net contents statement may appear on any label affixed to the container. If the net contents is a standard of fill other than an authorized standard of fill, e.g., 720 milliliters, the net contents statement must appear on a label affixed to the front of the container.

Since the regulations show "ml" as an abbreviation for milliliter (§ 4.37(a)(2)), that abbreviation may be used in lieu of milliliter, where required. ATF's policy is that the word liter may be abbreviated as "L" or "l" (under certain circumstances), or it may appear in a shortened form such as "Lt," provided such shortened form is not likely to mislead or confuse the consumer.

Finally, § 4.37 provides that the net contents need not be stated on the label if it is legibly blown, etched, sandblasted, marked by underglaze coloring, or otherwise permanently marked by any method approved by the Director on the side, front, or back of the container in an unobscured location.

Discussion

Metric standards of fill for wine were first prescribed in Treasury Decision (T.D.) ATF–12 (39 FR 45216, December 31, 1974; corrected at 40 FR 1240, January 7, 1975), and became mandatory on January 1, 1979. In order to avoid confusion among consumers, the final rule required metric net contents to be expressed in liters and decimal portions thereof for quantities larger than one liter (e.g., 1.5 liters) and in milliliters for quantities of less than one liter (e.g., 750 milliliters). ATF noted in the preamble of the final rule that statements of net contents in liters or milliliters would standardize the manner by which metric net contents are to be stated while also reflecting the degree of accuracy necessary to measure the content of wine bottles. ATF's decision to express the net contents in milliliters for wine in containers of less than one liter was based, in part, on testimony presented at the hearing which preceded T.D. ATF–12. A representative testifying on behalf of the American National Metric Council made the following comments:

> For everyday use the Metric Practice Committee of the American National Metric Council recommends milliliter—ml—as the only submultiple of liter. . . . The important thing is to avoid the confusion of an excessive variety of submultiples, which may cause errors in communication. These other submultiples, which have been used in various parts of the world, would be a deciliter—dl, a centiliter—cl. For American usage, however, we are recommending only milliliter—ml.

Containers for wine may bear statements of net contents in addition to the required metric net contents statement provided such optional statements represent an equivalent volume and are not in any way misleading to the consumer. For example, if the label on a wine container shows the net contents in accordance with § 4.73 as "750 ml," an additional statement such as "75 cl," ".75 L," "25.4 fl. oz.," etc., may appear elsewhere on the container provided its appearance is not in a manner which is misleading to the consumer.

Petition

ATF recently received a petition, filed by Banfi Vintners (Banfi) of Old Brookville, New York, requesting an amendment of the regulations concerning the net contents statement on labels of wine. Specifically, the petitioner has asked that the regulations be amended to provide that the net contents for wine bottled in a 750 milliliter (750 ml) standard of fill be expressed in centiliters, as "75 cl," as an alternative to "750 ml." Banfi states that

75 centiliters is a universally recognized measurement equivalent to 750 milliliters in the metric system. Furthermore, authorizing this alternative net contents statement on wine labels "would simplify current regulations and allow for an easier flow of wines among Europe, the world markets and the United States." In that regard, the European Union (EU) requires a statement of nominal volume (net contents) on labels of wine sold in EU countries. Pursuant to European Council Directive, the nominal volume must be stated in liters, centiliters or milliliters. See Council Regulation (EEC) No. 2392/89 of July 24, 1989 (Title I, Chapter I, Section AI, Article 2(1)(b); Title I, Chapter II, Section A, Article 25(1)(b)); Council Directive 75/106/EEC of December 19, 1974.

Proposed Regulatory Amendments

For many years ATF has permitted additional statements of net contents to appear on wine labels along with the required net contents statement, provided such optional statements represent an equivalent volume. In reviewing numerous certificates of label approval the Bureau finds that an optional statement of net contents frequently appears on labels of imported wine. This is most likely due to the fact that, as mentioned, under EU regulations the net contents of wine may be stated in milliliters, centiliters, or liters. An optional statement usually appears on labels of wine bottled in a 750 milliliter size container (a popular size among consumers) and was often expressed in centiliters, as "75 cl." To a much lesser extent, the optional statement was expressed in decimal portions of a liter, e.g., "0.75 L" ("0,75 L").

Optional statements of net contents expressed in centiliters also appeared on labels of imported wine bottled in other authorized standards of fill. For example, on containers of wine bottled in a 500 milliliter standard of fill the required and optional net contents statements appeared as "500 ml" and "50 cl," respectively. In the case of wine bottled in a 375 milliliter container (375 ml), the additional net contents statement was expressed as "37.5 cl." Thus, ATF believes that consumers are accustomed to seeing the net contents of wine expressed in centiliters.

The Bureau also observed that in many instances the required and optional net contents statements appeared on the same side of the container and, in some cases, in direct conjunction with each other, e.g., "750 ml/75 cl," "375 ml/37,5 cl," etc. As such, ATF believes that consumers recognize that the required net contents statement, expressed in milliliters, and the optional net contents statement, expressed in centiliters, represent an equivalent amount in the metric system.

Accordingly, ATF is proposing to amend the regulations to provide that the net contents statement for wine in containers of less than 1 liter shall be expressed in either milliliters (ml) or centiliters (cl), or both. The proposed amendment applies to the net contents of wine for which a standard of fill is prescribed in § 4.73, i.e., 750 ml, 500 ml, 375 ml, etc., as well as to the net contents of wine for which no standard of fill is prescribed, e.g., 730 ml (73 cl).

ATF is soliciting comments on this proposed amendment to the regulations. ATF is also soliciting comments on the following:

1. Whether the regulations should be amended in accordance with the petitioner's specific request to allow the net contents statement to be expressed in centiliters only on wine bottled in a 750 milliliter standard of fill;

2. Whether the regulations should be amended to authorize the net contents statement for wine in containers of less than 1 liter to be expressed in milliliters, centiliters, or decimal portions of liter. For example, in the case of wine bottled in a 750 milliliter standard of fill the net contents may be stated on the label as "750 ml," "75 cl," or ".75 L." ; or

3. Whether the regulations should be amended to be consistent with EU regulations, i.e., regardless of the container size, the net contents of wine shall be expressed in liters, milliliters, or centiliters.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action by Executive Order 12866. Therefore, a regulatory assessment is not required.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant economic impact on a substantial number of small entities. The proposed rule is liberalizing in nature in that wine producers will have greater choices in labeling their products. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and its implementing regulations, 5 CFR Part 1320, do not apply to this notice of proposed rulemaking because no new requirement to collect information is proposed. Section 4.37 (previously approved under OMB control number 1512–0482) is being amended to allow producers to state the net contents of their products in centiliters as an alternative to milliliters for wine in containers of less than 1 liter. The proposed amendments are liberalizing in nature, are not substantive, and do not impose any additional burden on the industry.

Public Participation

ATF requests comments on the proposed regulations from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of the petition, this notice, and the written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC.

Drafting Information

The author of this document is James P. Ficaretta, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, and Wine.

Authority and Issuance

Accordingly, ATF is proposing to amend Part 4 in Title 27 of the Code of Federal Regulations as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for 27 CFR Part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Paragraph 2. Section 4.37 is amended by revising paragraphs (a)(2), (b)(1), and (b)(2) to read as follows:

§ 4.37 Net contents.

(a) * * *

(2) If less than one liter, net contents shall be stated in milliliters (ml) or centiliters (cl), or both.

(b) * * *

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml or 75 cl (25.4 fl. oz.); 500 ml or 50 cl (16.9 fl. oz.); 375 ml or 37.5 cl (12.7 fl. oz.); 187 ml or 18.7 cl (6.3 fl. oz.); 100 ml or 10 cl (3.4 fl. oz.); and 50 ml or 5 cl (1.7 fl. oz.).

(2) Equivalent volumes of less than 100 fluid ounces shall be stated in fluid ounces only, accurate to the nearest one-tenth of a fluid ounce; for example, 700 ml or 70 cl (23.7 fl. oz.).

* * * * *

Paragraph 3. Section 4.38 is amended by revising the first sentence in paragraphs (b)(1) and (b)(2) to read as follows:

§ 4.38 General requirements.

(a) * * *

(b) Size of type. (1) Containers of more than 187 milliliters (18.7 centiliters). * * *

(2) Containers of 187 milliliters (18.7 centiliters) or less. * * *

* * * * *

§ 4.71 [Amended]

Paragraph 4. Section 4.71(a)(3) is amended by adding "(18.7 centiliters)" after "187 milliliters".

Paragraph 5. Section 4.73(a) is revised to read as follows:

§ 4.73 Metric standards of fill.

(a) Authorized standards of fill. The standards of fill for wine are the following:

3 liters
1.5 liters
1 liter
750 milliliters (or 75 centiliters)
500 milliliters (or 50 centiliters)
375 milliliters (or 37.5 centiliters)
187 milliliters (or 18.7 centiliters)
100 milliliters (or 10 centiliters)
50 milliliters (or 5 centiliters)

* * * * *

Signed: March 17, 1998.

John W. Magaw,

Director.

Approved: April 20, 1998.

John P. Simpso,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 98–13017 Filed 5–14–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD11–98–003]

RIN 2115–AA97

Security Zone; San Diego Bay

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify and expand the geographical boundaries of the permanent security zone codified at 33 CFR 165.1105 as follows: on the waters along the northern shoreline of Naval Air Station North Island, the area enclosed by the following points: Beginning at a point located at 32°42′53.0″ N, 117°11′45.0″ W, thence running northerly to a point located at 32°42′55.5″ N, 117°11′45.0″ W, thence running easterly to a point located at 32°42′55.0″ N, 117°11′30.5″ W, thence running southeasterly to a point located at 32°42′50.5″ N, 117°11′26.0″ W, thence running northeasterly to a point located at 32°42′52.0″ N, 117°11′24.5″ W, thence running southeasterly to a point located at 32°42′43.5″ N, 117°11′13.0″ W, thence running southerly to a point located at 32°42′30.5″ N, 117°11′18.0″ W, thence running southeasterly to a point located at 32°42′21.0″ N, 117°10′48.0″ W, thence running southerly to a point located at 32°42′13.0″ N, 117°10′51.0″ W, thence running generally northwesterly along the shoreline of Naval Air Station North Island to the place of beginning. The perimeter of the security zone will continue to be marked and patrolled by United States Navy security patrol boats.

There were previously only two aircraft carriers homeported at Naval Air Station North Island; however, a third aircraft carrier has recently been designated to homeport at Naval Air Station North Island. The modification and expansion of this security zone is needed to accommodate the homeporting of this third aircraft carrier at Naval Air Station North Island. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port.

DATES: Comments must be received on or before July 14, 1998.

ADDRESSES: Comments may be mailed to LT Michael A. Arguelles, Coast Guard Marine Safety Office, 2716 North Harbor Drive, San Diego, CA, 92101–1064, (619) 683–6484. The comments and other materials referenced in this notice will be available for inspection and copying at the above address. Normal office hours are between 7 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike Arguelles, USCG, c/o U.S. Coast Guard Captain of the Port, 2716 N. Harbor Drive, San Diego, CA 92101–1064, (619) 683–6484.

SUPPLEMENTARY INFORMATION:

Request for Comments

Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or any other materials to the address listed under **ADDRESSES** in this preamble. Persons submitting comments should include their names and addresses, identify the docket number for this rulemaking (CGD11–98–003), the specific section of the proposal to which their comments apply, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period and may change this proposal in view of the comments.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid in the rulemaking process. Persons may request a public hearing by writing to the address listed above in **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

This modification of 33 CFR 165.1105 is being proposed to accommodate the homeporting of a new aircraft carrier at Naval Air Station North Island. There were previously only two aircraft carriers homeported at Naval Air Station North Island; however, a third aircraft carrier has recently been designated to homeport at Naval Air Station North Island. The modification and expansion of this security zone is needed to accommodate the homeporting of this third aircraft carrier at Naval Air Station North Island.

The modification and expansion of this security zone will prevent recreational and commercial craft from interfering with military operations involving all naval vessels homeported at Naval Air Station North Island, and it will protect transiting recreational and commercial vessels, and their respective crews, from the navigational hazards posed by such military operations. Entry into, transit through, or anchoring within this security zone is prohibited unless authorized by the Captain of the Port.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This proposal will have minimal additional impact on vessel traffic because it is only a slight modification and expansion of the existing security zone codified at 33 CFR 165.1105.

Small Entities

Under 5 U.S.C. 601 *et seq.*, the Coast Guard must consider whether this proposal would have significant impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). The Coast Guard expects the economic impact of the proposal to be minimal on all entities. Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this regulation and concluded that, under Figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.1C, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend subpart F of part 165 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for 33 CFR part 165 continues to read as follows:

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

2. In § 165.1105 paragraph (a), is revised to read as follows:

§ 165.1105 Security Zone: San Diego Bay, CA.

(a) *Location.* The following area is a security zone: on the waters along the northern shoreline of Naval Air Station North Island, the area enclosed by the following points: beginning at a point located at 32°42′53.0″N, 117°11′45.0″W; thence running northerly to a point located at 32°42′55.5″N, 117°11′45.0″W; thence running easterly to a point located at 32°42′55.0″N; 117°11′30.5″W; thence running southeasterly to a point located at 32°42′50.5″N, 117°11′26.0″W; thence running northeasterly to a point located at 32°42′52.0″N; 117°11′24.5″W; thence running southeasterly to a point located at 32°42′43.5″N; 117°11′13.0″W; thence running southerly to a point located at 32°42′30.5″N; 117°11′18.0″W; thence running southeasterly to a point located at 32°42′21.0″N; 117°10′48.0″W; thence running southerly to a point located at 32°42′13.0″N; 117°10′51.0″W; thence running generally northwesterly along the shoreline of naval Air Station North Island to the place of beginning.

* * * * *

Dated: April 20, 1998.

J. C. Card,

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

[FR Doc. 98–13016 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6014–2]

National Primary Drinking Water Regulations: Consumer Confidence Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability; request for comments.

SUMMARY: In February 1998, EPA proposed the Consumer Confidence Report rule (62 FR 7606, Feb. 13, 1998). To test certain language that this rule would mandate, EPA convened focus group sessions. These groups of consumers provided comments on proposed definitions of regulatory terms and health effects language, as well as general comments on the consumer confidence reports. EPA will consider the input of the focus groups when making decisions regarding the final rule. The report of the focus group moderator, transcripts of the sessions, and supporting documents are available for review. EPA requests comments on the results of the focus group study.

DATES: Comments must be post-marked by midnight June 15, 1998.

ADDRESSES: Send written comments to CCR Docket Clerk (W–97–18); Water Docket (MC–4101); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460. Submit electronic comments to ow-docket@epamail.epa.gov.

Please submit an original and three copies of your comments and enclosures

(including references). Electronic comments must be submitted as a Word Perfect 5.1 or 6.1 file, or as an ASCII file avoiding the use of special characters. Comments will also be accepted on disks in WordPerfect 5.1 or 6.1, or ASCII file format. Electronic comments on this Notice may be filed online at many Federal Depository Libraries. Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline (800–426–4791) for general information about the proposed rule. The Safe Drinking Water Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time. For technical inquiries, contact Françoise M. Brasier (202–260–5668) or Rob Allison (202–260–9836).

SUPPLEMENTARY INFORMATION: The Consumer Confidence Report rule would require community water systems to mail to each of their customers an annual report on local drinking water quality. The report would include such information as the source of local drinking water, the levels of any contaminants detected in water delivered to consumers, violations of drinking water regulations, and other information about local water quality. The proposed rule sets few requirements for the format of the reports, thereby allowing water suppliers to tailor their reports around the information that they must present.

EPA proposed several brief definitions of regulatory terms (e.g., "maximum contaminant level") that systems would have to include in their reports. EPA also proposed brief health effects language for each regulated contaminant. Water systems would have to include this language in their reports whenever they detected a regulated contaminant in excess of its legal limit. In the proposal's preamble, EPA discussed options for both sets of language and requested comment on which language would be most useful to consumers.

Availability of Data.

The data to which this Notice refers is available for inspection from 9 to 4 p.m. (Eastern Time), Monday through Friday, excluding legal holidays, at the Water Docket, U.S. EPA Headquarters, 401 M. St., SW, East Tower Basement, Washington, DC 20460. Please call 202–260–3027 to schedule an appointment and refer to W–97–18. The Focus Group Report is also available on the Internet at www.epa.gov/safewater/ccr/focus.html.

Regulated persons. Potentially regulated persons are community water systems.

Category	Example of regulated entities
Publicly-owned CWSs.	Municipalities; County Governments; Water districts; Water and Sewer Authorities.
Privately-owned CWSs.	Private water utilities; homeowners associations.
Ancillary CWSs.	Persons who deliver drinking water as an adjunct to their primary business (e.g. trailer parks, retirement homes).

Dated: May 8, 1998.

Robert Perciasepe,

Assistant Administrator.

[FR Doc. 98–13025 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 98–56, RM–9101, FCC 98–72]

Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing this Notice of Proposed Rulemaking seeking comment on various proposed performance measurements and reporting requirements relating to incumbent carriers' operations support systems (OSS). The performance measurements and reporting requirements proposed in the NPRM will complement existing state proceedings and efforts by carriers, independent of regulatory requirements, to incorporate performance measurements into their interconnection agreements.

DATES: Comments are due on or before June 1, 1998 and Reply Comments are due on or before June 22, 1998. Written comments by the public on the proposed information collections are due June 1, 1998. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before July 14, 1998.

ADDRESSES: Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, with a copy to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 1231 20th St., N.W., Washington, D.C. 20036. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain_t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Radhika Karmarkar, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580. For additional information concerning the information collections contained in this NPRM contact Judy Boley at (202) 418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking adopted April 16, 1998 and released April 17, 1998 (FCC 98–72). This NPRM contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the OMB for review under the PRA. The OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding. The full text of this Notice of Proposed Rulemaking is available for inspection and copying during normal business hours in the FCC Reference Center, 1919 M St., N.W., Room 239, Washington, D.C. The complete text also may be obtained through the World Wide Web, at http://www.fcc.gov/Bureaus/Common Carrier/Orders/fcc9872.wp, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th St., N.W., Washington, D.C. 20036.

Paperwork Reduction Act

This NPRM contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens,

invites the general public and OMB to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this NPRM; OMB notification of action is due July 14, 1998. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: None.

Title: Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance.

Form No.: N/A.

Type of Review: New collection.

Information collection	Number of respondents (Approximately)	Estimated time per pesponse (annual) (hours)	Total annual burden (hours)
Pre-Ordering: Average Response Time	11	240	2,640
Ordering/Provisioning: Order Completion Measurements	11	480	5,280
Ordering/Provisioning: Coordinated Customer Conversions	11	240	2,640
Ordering/Provisioning: Order Status Measurements	11	1,200	13,200
Ordering/Provisioning: Held Order Measurement	11	240	2,640
Ordering/Provisioning: Installation Troubles Measurement	11	240	2,640
Ordering/Provisioning: Order Quality Measurements	11	480	5,280
Ordering/Provisioning: 911 Database Update and Accuracy	11	480	5,280
Repair and Maintenance Measurements	11	960	10,560
Billing Measurements	11	480	5,280
General Measurements: Systems Availability	11	240	2,640
General Measurements: Center Responsiveness	11	240	2,640
General Measurements: OS/DA	11	240	2,640
Interconnection: Trunk Blockage Measurements	11	480	5,280
Interconnection: Collocation Measurements	11	720	7,920

Frequency of Response: Monthly; On occasion.

Total Annual Burden: 76,560 hours.

Respondents: Business or other for profit.

Estimated costs per respondent: $800,000.

Needs and Uses: The NPRM seeks comment on certain performance measurements and reporting requirements to implement the interconnection requirements of the 1996 Act. The proposed measurements are intended to permit a direct assessment of whether an incumbent local exchange carrier is complying with its obligations under section 251 of the Communications Act of 1934, as amended.

Synopsis of Notice of Proposed Rulemaking

I. Introduction

1. In this proceeding, we explore ways to advance a fundamental goal of the Telecommunications Act of 1996—to increase consumer choice by fostering competition in the provision of local telephone service. The 1996 Act requires incumbent local telephone service providers to open their markets to competition.

2. Congress required incumbents to make available to new entrants in a nondiscriminatory, and just and reasonable manner the services and facilities the incumbents use to provide retail services to their own customers. In order to take advantage of the service and facility offerings that Congress requires incumbents to provide, new entrants need access to the support functions that incumbents use to process orders from their own customers.

3. In this proceeding, we propose a methodology by which to analyze whether new providers of local telephone service are able to access, among other things, the support functions (that is, the functions provided by computer systems, databases, and personnel) of incumbent local telephone companies in a manner consistent with the 1996 Act's nondiscrimination requirement. We seek comment, as explained below, on certain proposed measurements and reports designed to illuminate the performance of incumbent local telephone companies in providing access to these vital support functions. Such performance measurements will assist incumbents, new entrants, and regulators in evaluating an incumbent's performance in meeting its statutory obligations. We do not, however, propose specific performance standards or technical standards. We also seek comment on ways to achieve the statutory goals, while also minimizing the burden on all incumbent carriers, especially small, rural, and midsized incumbent local telephone companies.

4. We recognize that some state commissions have undertaken efforts to develop performance measurements and reporting requirements for these support functions. Other states have yet to begin such efforts, but plan to do so. States have sought this Commission's help in developing these measurements. The primary goal of this NPRM, therefore, is to provide guidance, in the most efficient and expeditious manner possible, to the states and the industry on a set of performance measurements and reporting requirements that will help spur the development of local competition. Accordingly, we propose, in the first instance, to adopt model performance measures and reporting requirements, as described in detail herein, that are not legally binding. This approach will allow those states that have commenced proceedings to incorporate the model performance measurements and reporting requirements as they deem beneficial and aid those states that have not begun work in this area. We expect to develop such model performance measurements and reporting requirements as expeditiously as possible once the record closes in this proceeding. The experience we gain from the

development of these model performance measurements and reporting requirements and their application by the states will, we believe, provide a more informed and comprehensive record upon which to decide whether to adopt national, legally binding rules. The adoption of national rules may, however, prove to be unnecessary in light of the states' and carriers' application of the model performance measurements and reporting requirements that we intend to adopt in the first instance. We emphasize our belief that the adoption of model performance measurements and reporting requirements to serve as guidelines for state commissions constitutes the most efficient and effective role for the Commission in this area at this time.

II. Background

A. Procedural History

5. On May 30, 1997, LCI International Telecom Corp. (LCI) and the Competitive Telecommunications Association (CompTel) jointly filed a petition asking the Commission to initiate a rulemaking proceeding ("LCI/CompTel Petition") concerning the requirements governing OSS, interconnection, and other related activities established by the Commission in its *Local Competition First Report and Order*, 61 FR 45476, August 29, 1996. On June 10, 1997, the Commission issued a Public Notice seeking comment on the LCI/CompTel petition. A number of parties, including both incumbent LECs and competing carriers, filed comments and reply comments in response to this Public Notice.

6. Among other things, petitioners ask the Commission to establish: (1) performance measurements and reporting requirements for the provision of operations support systems (OSS) functions; (2) default performance standards or benchmarks that would apply when an incumbent LEC fails, or refuses, to report on its performance; (3) technical standards for OSS interfaces; and (4) remedial provisions that would apply to non-compliant incumbent LECs. In their petition, LCI/CompTel propose that the Commission rely on the Service Quality Measurements adopted by the Local Competition Users Group (LCUG) as the basis for establishing performance measurements, reporting requirements, and default performance standards. On October 8, 1997, LCUG filed a revised proposal that described in detail its proposed performance measurements and default standards. A number of parties filed additional *ex parte* comments, offering their own proposed measurements and addressing the specific recommendations made by LCUG in its revised proposal.

B. Summary of Proposals

7. In this NPRM, we tentatively conclude that we should propose model performance measurements and reporting requirements for OSS functions, interconnection, and access to operator services and directory assistance. In Part III, we discuss the respective roles of the Commission and the states with regard to the development and implementation of model rules, as well as with respect to the establishment of legally binding rules. In Part IV, we set forth proposed performance measurements. In Part V, we discuss reporting procedures, and in Part VI we propose methods to evaluate performance measurements. As explained in Part VII, we conclude that we will not address at this time several points raised in the LCI/CompTel petition, such as the establishment of national performance standards, technical standards, and enforcement mechanisms. In addition, we recognize that the proposals set forth in this NPRM may disproportionately impact small, rural, and midsized incumbent LECs. Consequently, in Part VIII we also seek comment on the potential burdens that our proposed model rules could impose on these incumbent LECs and we seek comment on possible remedies.

III. Role of Commission and States

8. LCI and CompTel petitioned the Commission to initiate a rulemaking to promulgate performance measurements and reporting requirements. States as well have urged us to assist them in developing these measurements. Indeed, NARUC passed a resolution seeking such assistance. It states in pertinent part:

> *Resolved:* That the FCC be urged to move promptly to advance the establishment of performance guidelines that can be used to evaluate the provision of access to the components of OSS functions * * *.

Individual states have also begun work in this area. For example, California and New York have initiated proceedings to develop OSS requirements, including performance measurements and reporting requirements.

9. The primary goal of this NPRM is to provide the requested guidance to the states in the most efficient and expeditious manner possible. Accordingly, we intend, in the first instance, to adopt a set of model performance measurements and reporting requirements, based on the detailed descriptions provided herein and subject to whatever modifications we deem appropriate in light of comments received. These model performance measurements and reporting requirements would not be legally binding.

10. We recognize that parties in this proceeding have offered differing opinions concerning our jurisdiction to issue OSS rules. Some have argued that the Eighth Circuit's decision in Iowa *Utilities* v. *FCC* would preclude our authority to establish rules relating to OSS, while others have argued, to the contrary, that portions of that decision would validate our authority to issue such rules. We invite parties to comment on this issue. Given that our primary goal is to provide guidance to states through the adoption of model rules in the first instance, however, we strongly encourage parties to focus on the substance of the proposed performance measurements and reporting requirements, rather than focusing exclusively on issues of jurisdiction.

IV. Proposed Performance Measurements and Reporting Requirements

A. General Issues

11. In this section, we propose performance measurements for each of the five OSS functions, as well as for interconnection and OS/DA. These measurements are intended to permit a direct assessment of whether an incumbent LEC is complying with its obligations under section 251.

12. In the *Local Competition First Report and Order*, the Commission determined that, because OSS includes the information necessary to obtain other network elements or resold services, providing access to OSS functions falls squarely within an incumbent LEC's duty under section 251(c)(3) to provide unbundled network elements under terms and conditions that are nondiscriminatory, just and reasonable, and its duty under section 251(c)(4) to offer resale services without imposing any limitations or conditions that are discriminatory or unreasonable. Additionally, the Commission identified OSS itself as a network element and stated that it consisted of five functions: (1) pre-ordering; (2) ordering; (3) provisioning; (4) maintenance and repair; and (5) billing. The Commission concluded that, as with all unbundled network elements, an incumbent LEC must provide access to these five OSS functions that is equivalent to what it provides itself, its own end-user customers, or other carriers.

13. As a practical matter, for those OSS functions provided to competing carriers that are analogous to OSS functions that an incumbent LEC provides itself in connection with retail service offerings, the incumbent LEC must provide access to competing carriers that is equivalent to the level of access that the incumbent LEC provides itself in terms of quality, accuracy, and timeliness. Thus, for example, for those functions that an incumbent LEC itself accesses electronically, the incumbent LEC must provide electronic access for competing carriers. In addition, competing carriers must have access to OSS functions that allows them to make use of such functions in "substantially the same time and manner" as the incumbent LEC. For those OSS functions that have no direct retail analog, such as the ordering and provisioning of unbundled network elements, an incumbent LEC must provide access sufficient to allow an efficient competitor a meaningful opportunity to compete.

14. With respect to interconnection, the Commission concluded that "section 251(c)(2)(C) requires an incumbent LEC to provide interconnection between its network and that of a requesting carrier at a level of quality that is at least indistinguishable from that which the incumbent provides itself, a subsidiary, an affiliate, or any other party." Finally, incumbent LECs are obligated under section 251(c)(3) to provide nondiscriminatory access to operator services and directory assistance because they are network elements.

15. The measurements we propose in this NPRM are designed to assist in assessing an incumbent LEC's performance in providing OSS, interconnection, and OS/DA to competing carriers. Various parties presented proposals for performance measurements in this proceeding. We conclude, however, that no single proposal optimally balances our goals of detecting possible instances of discrimination while minimizing, to the extent possible, burdens imposed on incumbent LECs. We therefore propose a set of measurements that we believe provides an appropriate balance of these goals.

16. We recognize that reporting averages of performance measurements alone, without further analysis, may not reveal whether there are underlying differences in the way incumbent LECs treat their own retail operations in relation to the way they treat competing carriers. Consequently, we propose, as part of the model rules proposed herein, the use of statistical tests to determine whether measured differences in the average performance of incumbent LECs toward their retail customers and toward competing carriers represent true differences in behavior rather than random chance. Further, we recognize that reporting on averages alone may mask potential forms of discrimination. For example, an incumbent LEC may have the same average completion interval in providing service to competing carriers as it has in providing service to its retail customers, but the variation in completion intervals in providing the service may differ greatly. It may be the case, for instance, that the average completion interval is four days for both competing carriers and retail customers, but half of competing carriers' orders are completed in one day and half in seven days, while all of retail customers' orders are completed in exactly four days. For this reason, we seek comment below on the possible use of statistical tests that capture differences in variances between two samples as well as tests of differences in averages. We also seek comment below on whether, as part of the model rules proposed herein, the data underlying the performance measurement results should be made available to competing carriers so that they can evaluate the incumbent LECs' performance in other ways if they choose to do so.

17. Before describing the individual performance measurements, however, we seek comment on a number of general issues that pertain to all performance measurements. These general issues concern: 1) the appropriate balance between the burdens and benefits associated with performance measurements and reporting requirements; 2) the appropriate geographic level for reporting; 3) the scope of activities that incumbent LECs should report; and 4) the relevant electronic interfaces for purposes of reporting the measurements described below.

1. Balance Between Burdens and Benefits

18. Our goal in developing performance measurements, and the associated level of detail, is to isolate the activities in which an incumbent could discriminate when providing services and facilities to competing carriers. We believe that persistent discrimination by an incumbent LEC in any of the activities for which we have proposed performance measurements potentially would undermine a competing carrier's prospects for success in the local market. At the same time, as we have noted previously, although we believe that performance measurements and reporting requirements will help foster competition in the local exchange market, compliance with performance measurements and reporting requirements imposes certain burdens on incumbent LECs. In developing our proposed performance measurements and reporting requirements, we have sought to balance our goal of detecting possible instances of discrimination with our goal of minimizing, to the extent possible, burdens imposed on incumbent LECs. As a general matter, we seek comment on whether our proposed measurements appropriately balance these twin goals.

19. Additionally, we ask parties to comment generally on the level of detail contained in the proposed performance measurements. Specifically, we seek comment on whether the performance measurements we propose in this NPRM are sufficiently detailed to ensure the collection of meaningful data, or whether greater detail or disaggregation is necessary or whether lesser detail or disaggregation would be sufficient.

2. Geographic Level for Reporting

20. We seek comment on the appropriate geographic level of reporting. In particular, we seek comment on whether carriers should report data for each performance measurement based on state boundaries, LATAs, metropolitan statistical areas (MSAs), or some other relevant geographic area. We also seek comment on whether a uniform geographic level of reporting should apply to all performance measurements, or whether it would be appropriate to require different levels of reporting for separate measurements.

3. Scope of Reporting

21. We believe that, when an incumbent LEC reports the results of the performance measurements, it must do so in a manner that permits a competing carrier to compare the access the incumbent LEC provides to the carrier and other competing carriers with the access the incumbent LEC provides to itself or its affiliates. Accordingly, we tentatively conclude that an incumbent LEC should report separately on its performance as provided to: (1) its own retail customers; (2) any of its affiliates that provide local exchange service; (3) competing carriers in the aggregate; and (4) individual competing carriers. We seek comment on these proposed levels of disaggregation and whether they will permit competing carriers to detect discrimination.

4. Relevant Electronic Interfaces

22. As the Commission has previously noted, an incumbent LEC must provide competing carriers the same electronic access to its OSS functions as it provides itself in accessing its own internal systems and databases. Because incumbent LECs access their systems electronically for retail purposes, we tentatively conclude that incumbent LECs need measure only the access they provide electronically to competing carriers. Therefore, our proposals would only require incumbent LECs to measure the performance of the electronic interfaces that incumbent LECs offer to competing carriers for access to OSS.

23. We recognize that most incumbent LECs provide several types of electronic interfaces, such as a GUI-based interface and an EDI-based interface. We seek comment on whether these incumbent LECs must provide performance measurements for each type of electronic interface. We seek comment on whether an incumbent LEC should measure performance for each of its electronic interfaces or only some subset of the interfaces it offers. To the extent that incumbent LECs report on performance for all electronic interfaces, we tentatively conclude that they should disaggregate the data by interface type when reporting each performance measurement.

24. As noted above, we have sought to balance our goal of detecting possible instances of discrimination with our goal of minimizing, to the extent possible, burdens imposed on incumbent LECs. Because we intend to limit our proposed measurements to the performance of an incumbent LEC's electronic interfaces, we expect that most of the measurements proposed in this NPRM can be collected through electronic coding or some other automatic logging procedure. We seek comment on which, if any, of our proposed measurements may require more labor-intensive collection methods and whether, as a result, they would be unduly burdensome.

B. Proposed Measurements

1. Pre-Ordering Measurements

25. The pre-ordering function allows a competing carrier to gather and confirm information necessary to place an accurate order for its end user. We tentatively conclude that an incumbent LEC must measure the average interval for providing access to pre-ordering information to competing carriers, as well as to itself. The Average Response Time measurement could, however, be based on all queries sent to the pre-ordering interface or some subset of these queries. We seek comment on whether a sampling approach, such as the one adopted in the *Bell Atlantic/NYNEX Merger Order*, would be a sufficient method for assessing an incumbent LEC's nondiscriminatory provision of pre-ordering information. In addition, we propose that an incumbent LEC disaggregate the results for this measurement according to the pre-ordering sub-functions.

26. We recognize that there may be instances where an incumbent LEC does not provide access to certain pre-ordering sub-functions on a real time basis, but rather via batch files (*e.g.*, street address verification). We seek comment on whether incumbent LECs should exclude those pre-ordering sub-functions that are not provided on a real time basis from this measurement, or whether there are alternative methods to detect possible discriminatory access in such instances.

27. In certain instances a competing carrier may be unable to retrieve pre-ordering information for each query attempt. Instead, it may receive a rejected query notice (also known as a failed attempt notice). We seek comment on whether an incumbent LEC should measure the speed by which it provides rejected query notices to competing carriers as well as to itself. In addition, we seek comment on whether a rejected query notice measurement must be provided as a separate category for the pre-ordering function in general or, alternatively, disaggregated separately for each pre-ordering sub-function. Finally, we seek comment on whether incumbent LECs should measure the number of rejected query notices as a percentage of the total number of pre-ordering queries.

2. Ordering and Provisioning Measurements

a. Disaggregation of data. 28. Before describing the proposed ordering and provisioning measurements, this section discusses the levels of disaggregation that we believe should apply to these measurements, as well as to the repair and maintenance measurements discussed in Part IV.B.3. We believe that some level of disaggregation is necessary to ensure the collection of meaningful results. We note that a number of parties have proposed various levels of disaggregation. Although we make no tentative conclusions regarding the appropriate levels of disaggregation for ordering and provisioning measurements and repair and maintenance measurements, we seek comment on the thirteen measurement categories. In order for competing carriers to track more easily the treatment accorded to certain types of orders throughout the ordering and provisioning process, we propose to use these thirteen measurement categories for the order completion measurements, the order status measurements, the held orders measurement, and the installation troubles measurement. Similarly, in order for competing carriers to observe more easily correlations between the types of services or elements ordered and any subsequent need for repair and maintenance, we propose to use the same thirteen measurement categories for the various repair and maintenance measurements, the Average Time to Restore measurement, the Frequency of Troubles in a Thirty Day Period measurement, the Frequency of Repeat Troubles in a Thirty Day Period measurement and the Percentage of Customer Troubles Resolved within Estimated Time measurement.

29. We seek comment on whether the thirteen proposed measurement categories are appropriate. In particular, we seek comment on whether these categories would disaggregate the data sufficiently to allow the detection of discrimination. We also seek comment on whether fewer levels of disaggregation would sufficiently detect instances of discrimination, but would impose less reporting burden on incumbent LECs.

30. We propose that incumbent LECs first break down the orders by separating resold services, unbundled network elements, and interconnection trunks.

For resold services, we propose to disaggregate the measurements further according to the three broad categories of resold telecommunications services: (1) Residential POTS; (2) business POTS; and (3) special services. We believe that each particular service that is available for resale can be categorized under one of these broader service umbrellas. We propose, however, that each group should be broken down by orders that require the dispatch of a service technician and those that do not. We believe that this breakdown is important because the need for field work has a significant impact on the amount of time necessary to provision a resale order placed by a competing carrier. We seek comment on the proposed levels of disaggregation for resold services.

31. For unbundled network elements, we propose that incumbent LECs report separately the measurement results associated with ordering and provisioning different types of network elements (*i.e.*, unbundled loops,

unbundled switching, and unbundled local transport). We believe that disaggregation by type of network element is necessary because there are varying degrees of order complexity and inter-carrier coordination involved with different types of network elements, including combinations of network elements, and that these variations will affect the time required to provision a network element order. In addition, we propose that orders for unbundled loops should be broken down by whether the loops are provisioned with interim number portability. We believe that the provisioning time for loops with interim number portability may differ from those without. We seek comment on our proposed levels of disaggregation for network element orders. We also seek comment on whether the unbundled loop category should be further disaggregated, as suggested by LCUG, between 2-wire unbundled loops, which are generally used for POTS-type services, and all other loop types, such as 4-wire unbundled loops and unbundled DS1 loops, which may be more complex to provision.

32. Finally, we propose to include interconnection trunks as a separate measurement category. Although interconnection trunks are physically indistinguishable from transport links, interconnection trunks are unique because they are used for the transmission of traffic between two networks, whereas transport links are used for the transmission of traffic within the incumbent's network. As a result, the process for ordering interconnection trunks, as well as the mechanisms for provisioning those trunks, is likely to involve a higher degree of order complexity, as well as greater inter-carrier coordination, and, therefore, may require a separate reporting category. We seek comment on the inclusion of interconnection trunks as a separate measurement category.

b. *Order Completion Measurements.*

33. We tentatively conclude that incumbent LECs must measure the Average Completion Interval and the Percentage of Due Dates Missed for orders placed by their own retail customers and for orders placed by competing carriers.

34. The measurement for the Average Completion Interval seeks to compare the average length of time it takes an incumbent LEC to complete orders for competing carriers with the average length of time it takes to complete comparable incumbent LEC retail orders. For competing carriers' orders, we tentatively conclude that an incumbent LEC must measure the interval from its receipt of a valid order ("Order Submission Date and Time") at its OSS interface until the time it returns a completion notification to the competing carrier ("Date and Time of Notice of Completion"). For its own orders, we propose that an incumbent LEC measure the interval from when its service representative enters an end user customer's order into its order processing system ("Order Submission Date and Time") to the time it completes the order ("Completion Date and Time"). We seek comment on whether our proposed measurement for the Average Completion Interval is sufficient or whether greater or lesser detail is necessary.

35. The Percentage of Due Dates Missed measurement seeks to determine whether the agreed-upon due dates for order completion are equally reliable for orders placed by competing carriers and orders placed by an incumbent LEC's end user customers. We tentatively conclude that an incumbent LEC must calculate this percentage by comparing the total number of orders not completed by the committed due date and time during the specified reporting period to the total number of orders scheduled to be completed during that reporting period. This same measurement would apply to orders for an incumbent LEC's customers and for orders submitted by competing carriers. We seek comment on whether our proposed measurement for Percentage of Due Dates Missed is appropriate or whether additional detail is necessary.

36. With respect to both the Average Completion Interval and Percentage of Due Dates Missed measurements, we tentatively conclude that certain exclusions should apply. We tentatively conclude that incumbent LECs should exclude orders canceled or supplemented by competing carriers from these measurements. We seek comment on whether additional exclusions are needed.

c. Average time for coordinated customer conversions. 37. We tentatively conclude that the incumbent LECs should measure the Average Time for Coordinated Customer Conversions. Specifically, incumbent LECs must measure the average time it takes to disconnect an unbundled loop from the incumbent LEC's switch and cross connect it to a competing carrier's equipment with and without number portability. This performance measurement will assist in determining how long a customer switching to a competing carrier is without local exchange service when the competing carrier utilizes the incumbent LEC's unbundled loop, in conjunction with its own switching equipment, to provide such service. We believe that this measurement will assist in evaluating the incumbent LEC's provisioning of unbundled loops and the impact on competing carriers' customers.

d. Order status measurements. 38. We have previously stated that a competing carrier must receive information on the status of its orders on the same basis as an incumbent LEC provides such notices to itself.

39. We tentatively conclude that incumbent LECs must provide the following order status measurements: (1) the Average Reject Notice Interval; (2) the Average Firm Order Confirmation (FOC) Notice Interval; (3) the Average Jeopardy Notice Interval; (4) the Percentage of Orders in Jeopardy; and (5) the Average Completion Notice Interval. We tentatively conclude that all incumbent LECs must also measure these intervals for themselves, whether or not they have done so previously, in order to provide a basis for comparison with the average intervals for competing carriers. A comparison of these times can provide information on whether the incumbent is providing nondiscriminatory access to competing carriers. We seek comment on these tentative conclusions. If an incumbent LEC does not currently provide itself with a certain form of notice (*e.g.*, a FOC), we seek comment on the appropriate retail analog that should be measured. We also seek comment on whether all of these order status measurements are necessary to ensure that an incumbent LEC is providing nondiscriminatory access.

40. The Average Reject Notice Interval seeks to measure the amount of time it takes an incumbent LEC to notify the competing carrier that an order has been rejected. An incumbent LEC typically sends an order rejection notice for invalid orders, such as those that have syntax or formatting errors in the order form. The Commission has previously explained that "[t]imely delivery of order rejection notices has a direct impact on a new entrant's ability to service its customers, because new entrants cannot correct errors and resubmit orders until they are notified of their rejection * * *." We tentatively conclude that an incumbent LEC must measure the time it takes to deliver such notices by using the measurement. We propose that an incumbent LEC measure this interval from the time it receives an order at its OSS interface to the time the rejection notice leaves its gateway. We seek comment on these tentative conclusions.

41. The Average FOC Notice Interval seeks to measure the amount of time it takes an incumbent LEC to send a

competing carrier a notice confirming the order. Competing carriers rely on FOC notices to apprise their customers of due dates. We tentatively conclude that an incumbent LEC must measure the time it takes to deliver a FOC notice by using the measurement. We also tentatively conclude that the incumbent LEC must measure this interval from the time it received a valid order at its OSS interface from the competing carrier to the time the FOC leaves its OSS interface and is transmitted to the competing carrier. Because this interval measures only valid orders, we tentatively conclude that incumbent LECs must exclude rejected orders from this measurement. We seek comment on these tentative conclusions.

42. The Average Jeopardy Notice Interval attempts to determine how far in advance a competing carrier receives notice that its customer's order is in jeopardy of not being completed as scheduled, compared to how far in advance an incumbent LEC's service representative receives such notice. The Commission has previously explained that competing carriers need timely order jeopardy notices to inform their customers of the potential need to reschedule the time for service installation. We tentatively conclude that incumbent LECs must measure the amount of time between the originally scheduled order completion date and time (as stated on the FOC) and the date and time a notice leaves the incumbent LEC's interface informing the carrier that the order is in jeopardy of missing the originally scheduled date. We seek comment on this tentative conclusion.

43. We also tentatively conclude that incumbent LECs must measure the Percentage of Orders in Jeopardy. This measurement determines the percentage of orders that the incumbent LEC identifies as being in jeopardy of not being completed on time for any reason. This information will enable a competing carrier to determine whether a significantly higher percentage of its orders are placed in jeopardy than an incumbent LEC's retail orders. Additionally, a competing carrier should receive a jeopardy notification for each of its orders that the incumbent LEC fails to complete on time. A competing carrier can determine whether it is receiving this requisite advance notice by comparing the Percentage of Orders in Jeopardy to the Percentage Due Dates Missed measurement.

44. Finally, the Average Completion Notice Interval measures the amount of time it takes an incumbent LEC to send a competing carrier notice that work on an order has been completed. We tentatively conclude that an incumbent LEC must use the measurement and must measure the interval by subtracting the date and time that it completed the work from the date and time a valid completion notice leaves its OSS interface. We seek comment on these tentative conclusions.

e. Average interval for held orders. 45. We tentatively conclude that incumbent LECs must measure the Average Interval for Held Orders. This measurement seeks to capture the time required to complete held orders, *i.e.*, those orders pending at the end of the reporting period whose committed due dates have passed. For example, if incumbent LECs report on a monthly basis, a held order would be any order that is overdue at the end of the month. By measuring those orders whose due dates have passed, the Average Held Order measurement will capture those orders not covered by the Average Completion Interval measurement, which measures orders that are completed by the committed due date. We believe that the Average Interval for Held Orders measurement will enable a requesting carrier to determine whether the average period that its orders are pending after the committed due date is no longer than the average period for similar incumbent LEC pending orders. We seek comment on the utility of measuring the average interval for held orders and whether the measurement described below accurately captures the necessary information.

46. To arrive at the Average Interval for Held Orders, we tentatively conclude that the incumbent LEC should first identify all orders with a FOC listing a due date prior to the end of the reporting period in question for which a valid completion notice has not yet been issued. The held order interval for a particular order is the number of calendar days between the completion date listed on that order's FOC and the close of the reporting period. The Average Interval for Held Orders is then calculated by dividing the total number of days since the due date up to the reporting period close date by the number of held orders. Incumbent LECs should measure the Average Interval for Held Orders for both competing carrier orders and their own retail customer orders. We propose that incumbent LECs exclude from this measurement those orders cancelled by a competing carrier. We seek comment on whether these exclusions will assist in producing meaningful results and on whether additional exclusions are needed.

f. Installation troubles. 47. We tentatively conclude that an incumbent LEC must measure Percentage Troubles in Thirty Days for New Orders. We believe that incumbent LECs must calculate the percentage of new orders for which a competing carrier, or incumbent LEC customer service representative, receives complaints that there is a problem with the service within the first thirty days after completion of the order. Trouble reports often indicate that a customer has not received the exact service ordered, either because the carrier provided the wrong type of service or a lower quality of service than expected. We believe, therefore, that this measurement will provide information about whether the incumbent LEC processed the order accurately. Accordingly, we propose that incumbents LECs measure Percentage Troubles in Thirty Days for New Orders as a substitute for LCUG's proposed measurement of Percentage Orders Processed Accurately. We believe that Percentage Troubles in Thirty Days for New Orders will provide the information sought by LCUG, but will be a less burdensome measurement than measuring order accuracy, which requires an incumbent LEC to compare the original account profile and order sent by the competing carrier to the account profile following completion of the order. Nevertheless, we seek comment on using this measurement as a substitute for order accuracy. We also seek comment on whether thirty days is an appropriate cut-off for measuring trouble reports for new orders.

48. Although we make no tentative conclusions regarding the specific measurement needed to measure Percentage Troubles in Thirty Days for New Orders, we seek comment on the measurement. Specifically, we seek comment on whether this measurement should be disaggregated in the same way as the other ordering and provisioning measurements. It may not be appropriate, for example, to include interconnection trunks because any problems relating to such trunks will likely affect many customers on the competing carrier's network, rather than one specific customer. We seek comment on whether interconnection trunks, or any other categories of disaggregation, should be eliminated for this measurement.

49. Finally, we seek comment on whether it is appropriate to measure percentage troubles on a "per order" basis. We seek comment on whether tracking troubles on a per order basis might mask a higher number of troubles for larger orders. For example, an order of forty new lines may have several problems and yet would be reported as having only one trouble report. We therefore seek comment on whether a

"per circuit" basis for resale orders and "per element" basis for unbundled network element orders might be more useful than a "per order" basis.

g. Ordering quality measurements.

1. Order Flow Through

50. An incumbent LEC's internal ordering system permits its retail service representatives to submit retail customer orders electronically, directly into the ordering system. This is known as "flow through." Similarly, a competing carrier's orders "flow through" if they are transmitted electronically (*i.e.*, with no manual intervention) through the gateway into the incumbent LEC's ordering systems. Order Flow Through applies solely to the OSS ordering function, not the OSS provisioning function. In other words, Order Flow Through measures only how the competing carrier's order is transmitted to the incumbent's back office ordering system, not how the incumbent ultimately completes that order. Electronically processed service orders are more likely to be completed and less prone to human error than orders that require some degree of human intervention.

51. We tentatively conclude that incumbent LECs should measure the percentage of competing carriers' orders that flow through electronically to the incumbent LEC's ordering systems. The Percentage Order Flow Through measurement seeks to calculate the percentage of orders that an incumbent LEC processes electronically through its gateway and accepts into its back office systems without manual intervention (*i.e.*, without additional human intervention once the order is submitted into the system). This measurement only applies to valid orders, that is, orders that have not been rejected for some reason. A separate measurement for rejected orders is in paragraph 53.

52. We tentatively conclude that the Order Flow Through measurement must be disaggregated by the following categories: (1) resale POTS; (2) resale specials; (3) network elements; and (4) combinations of network elements. We note that the proposed categories for the Order Flow Through measurement are less detailed than the categories proposed for the other measurements relating to the ordering process (*e.g.*, order completion and order status measurements). We believe this distinction is justified because the Order Flow Through measurement focuses solely on the OSS ordering function, whereas the other proposed measurements (*i.e.*, those regarding order completion and order status) also focus on the OSS provisioning function. In the provisioning context, there may be substantial differences in the time required to provide various types of unbundled network elements and services. For example, the time required to complete certain orders may vary based on whether an order requires a dispatch, or merely a billing change. In the order flow through context, such issues are irrelevant. The method of ordering resold services and network elements is not likely to vary between residential and business customers. We seek comment on the proposed levels of disaggregation for the Order Flow Through measurement and whether further disaggregation is necessary.

2. Order Rejections

53. We tentatively conclude that incumbent LECs must report on the Percentage of Rejected Orders. We also tentatively conclude that this measurement must be reported to the same level of disaggregation as the Order Flow Through measurement. The Percentage of Rejected Orders measurement, would determine the percentage of total orders received electronically that are rejected.

54. In addition to the above measurement, we seek comment on whether incumbent LECs should report on the average number of times an order must be resubmitted before it is finally accepted as a valid order. The Average Submissions per Order measurement would require incumbent LECs to measure the number of orders accepted for provisioning and the number of orders rejected during the reporting period in order to calculate the total number of order submissions in the reporting period. The total number of order submissions would then be divided by the total number of orders accepted for provisioning in the reporting period.

h. 911 Database update and accuracy.

55. One of the OSS databases used in ordering and provisioning services and facilities to competing carriers is the 911/E911 database. We seek comment on whether incumbent LECs should measure the provision of 911 and E911 emergency services to competing carriers. The accuracy of 911 and E911 database updates was identified as an important issue in the *Ameritech Michigan 271 Order*, 62 FR 44969, August 25, 1997. We seek comment on whether federal reporting requirements are necessary to monitor possible discrimination, or whether the states' existing oversight functions of 911 and E911 database services adequately monitor carrier-to-carrier discrimination.

56. We also seek comment on what particular measurements would be useful if we were to adopt reporting requirements in this area. In particular, we seek comment on the utility of measuring the percentage of accurate updates for incumbent LEC and competing carrier customers. Such a measurement might assist a competing carrier in determining whether there is discriminatory treatment in updating these databases.

57. We also seek comment on the utility of measuring the timeliness of updates to the 911 and E911 databases. We seek comment on whether incumbent LECs should measure the percentage of missed due dates by establishing due dates, or specific time frames, for updating databases. Alternatively, we seek comment on whether incumbent LECs should measure the mean time to update the 911 and E911 databases.

3. Repair and Maintenance Measurements

58. We tentatively conclude that incumbent LECs must provide the following repair and maintenance measurements: (1) Average Time to Restore; (2) Frequency of Repeat Troubles in Thirty Days; (3) Frequency of Troubles in a Thirty Day Period; and (4) Percentage of Customer Troubles Resolved within the Estimated Time. Incumbent LECs must calculate these measurements for themselves and for competing carriers. We seek comment on whether these four measurements are sufficient to assess whether incumbent LECs provide repair and maintenance in a nondiscriminatory manner, or whether this assessment could be done with fewer measurements. In addition, we seek comment on whether incumbent LECs should disaggregate the repair and maintenance measurements in the manner described with respect to the ordering and provisioning measurements.

59. The Average Time to Restore measurement allows a competing carrier to gauge whether its customers' services are repaired in the same time frame as that of the incumbent LEC's customers. The Average Time to Restore measures the time from when a service problem is reported to the incumbent LEC (*i.e.*, when a "trouble ticket" is logged) to the time when the incumbent LEC returns a trouble ticket resolution notification to the competing carrier.

60. The Frequency of Troubles in a Thirty Day Period measurement reports the percentage of access lines that receive trouble tickets in a thirty day period. This measurement permits a competing carrier to determine on an

ongoing basis whether its customers experience more frequent incidents of trouble than the incumbent LEC's end users. Disparity in this measurement may indicate differences in the underlying quality of the network components supplied by the incumbent LEC. We seek comment on whether thirty days is an appropriate time frame.

61. The Frequency of Repeat Troubles in a Thirty Day Period measurement calculates the percentage of trouble tickets that are repeat trouble tickets. Any differences in this measurement may indicate that the incumbent LEC provides inferior maintenance support in the initial resolution of troubles or, in the alternative, that the incumbent LEC supplies network components of an inferior quality. The Frequency of Repeat Troubles in a Thirty Day Period measurement is calculated by dividing the number of repeat troubles generated in a thirty day period by the total number of trouble tickets received in the same thirty day period. Again, we seek comment on whether thirty days is an appropriate time frame.

62. The Percentage of Customer Troubles Resolved Within the Estimated Time measures whether the estimated times for repairs the incumbent LEC reports to competing carriers are as reliable as the estimated times the incumbent LEC provides to its end user customers. Recognizing that troubles on interconnection trunks may not be customer specific, we seek comment on the utility of requiring incumbent LECs to report on the Percentage of Customer Troubles Resolved Within the Estimated Time with respect to interconnection trunks.

63. We note that LCUG has proposed measurement categories for the Average Time to Restore measurement based on the disposition and cause of the trouble. We seek comment on whether most carriers use the disposition and cause categories proposed by LCUG, and whether such a breakdown would be useful for the repair and maintenance measurements. We also seek comment on whether such a breakdown would place undue burdens on incumbent LECs.

64. We tentatively conclude that incumbent LECs should exclude the following types of trouble reports from the measurements described above: (1) trouble tickets that are cancelled by the competing carrier; (2) incumbent LEC trouble reports associated with the internal or administrative use of local service; and (3) instances where the customer requests a ticket be "held open" for monitoring. With respect to the Frequency of Repeat Troubles measurement, we tentatively conclude that incumbent LECs should exclude subsequent trouble reports on maintenance tickets that have not been reported as resolved or closed. We seek comment on whether these exclusions will assist in producing meaningful results and whether additional exclusions are needed.

4. Billing Measurements

65. As noted above, an incumbent LEC must provide nondiscriminatory access to billing, as one of the five OSS functions identified by the Commission in the *Local Competition First Report and Order*. A competing carrier is dependent on an incumbent LEC to obtain billing information, regardless of whether it uses unbundled network elements or resold services. Two types of billing information a competing carrier must obtain from an incumbent LEC are: (1) customer usage records (*i.e.*, those records detailing each end user's use of the incumbent's services); and (2) billing invoices, which establish the amount the competing carrier owes the incumbent LEC for use of its services or facilities.

66. We tentatively conclude that a competing carrier can determine whether it is obtaining nondiscriminatory access to these two sets of billing records by obtaining performance measurements on the Average Time to Provide Usage Records and the Average Time to Deliver Invoices. The first measurement (Average Time to Provide Usage Records) seeks to capture the average time it takes an incumbent LEC to provide customer usage records. We tentatively conclude that incumbent LECs should use the measurements for the Average Time to Provide Usage Records in calculating the intervals for competing carriers and for their own retail use. For competing carriers, an incumbent LEC must compare the date and time it records usage data with the date and time it transmits the records from its OSS gateway to the competing carrier. For its own retail use, we propose that an incumbent LEC measure the elapsed time between the date and time of recording the usage record to the date and time it reformats the record on an Electronic Message Record (EMR), or an equivalent, format. We seek comment on these measurements. Additionally, we understand that files and billing for local usage, exchange access usage, and alternately billed usage are separated in the actual billing process, and we seek comment on whether incumbent LECs should disaggregate the Average Time to Provide Usage Records into these three groups.

67. The second measurement (Average Time to Deliver Invoices) seeks to measure the average time it takes an incumbent LEC to transmit a billing invoice to a competing carrier for charges related to resale and/or network elements. We tentatively conclude that incumbent LECs should calculate the Average Time to Deliver Invoices. For competing carriers, an incumbent LEC must compare the date and time it transmits the invoices to the competing carrier to the date and time the billing cycle closes. For an incumbent LEC's own retail use, LCUG has proposed that an incumbent LEC compare the date and time the customer's bills are produced in electronic format (whether or not they are distributed) to the date and time the billing cycle closes. We seek comment on this proposal for retail use and on our tentative conclusion regarding the appropriate measurement for competing carriers. We also seek comment on whether incumbent LECs should report separately for wholesale bill invoices and unbundled element bill invoices for competing carriers. Finally, we seek comment on whether any other measurements for billing are appropriate.

5. General Measurements

a. Systems Availability. 68. We tentatively conclude that an incumbent LEC must measure the percentage of time its electronic interfaces for each OSS function are actually operational as compared to the scheduled availability. We propose that an incumbent LEC calculate this measurement by comparing the total time it provides access to a particular interface during the reporting period to the total time the interface was scheduled to be available during the reporting period. We also propose that an incumbent LEC compare the total time its own systems are available to its service representatives to the amount of time that those systems should have been available during the reporting period. We believe that this measurement will assist in determining whether the incumbent LEC provides nondiscriminatory access to its electronic interfaces. We believe that both prolonged outages and frequent unavailability of electronic access to an incumbent LEC's OSS interfaces may significantly and adversely affect a competing carrier's ability to provide service to end users. We tentatively conclude that this measurement must be disaggregated by interface type, such as EDI and GUI, as well as by each separate OSS function provided by the incumbent LEC to competing carriers (*e.g.*, pre-ordering, ordering,

provisioning, repair and maintenance, and billing). We seek comment on our tentative conclusions regarding systems availability measurements.

b. Center Responsiveness. 69. We tentatively conclude that an incumbent LEC must measure the average time to answer calls from competing carriers to an incumbent LEC's wholesale service center. We propose that an incumbent LEC calculate this measurement by tracking the time elapsed from when the service center's call management system is prompted by an incoming call from a competing carrier until the call is answered by an incumbent LEC's service representative. We seek comment on our tentative conclusion to require a measurement for center responsiveness.

c. Operator services and directory assistance. 70. We tentatively conclude that an incumbent LEC must measure the average time it takes its own end user customers and those of competing carriers to access the incumbent LEC's operator services and directory assistance databases or operators. We seek comment on this specific measurement.

71. Incumbent LECs appear to be able to provide separate measurement results for competing carriers that use dedicated trunks to access the incumbent LEC's OS/DA database or operators. Therefore, we tentatively conclude that incumbent LECs must provide separate measurement results in such instances. We seek comment, however, on whether, for purposes of disaggregation, an incumbent LEC is able to differentiate between OS/DA calls from its own end user customers and customers of competing carriers if all such calls are carried over the same OS/DA trunk groups.

6. Interconnection Measurements

72. As previously noted, section 251(c)(2) of the Act requires incumbent LECs to provide interconnection to competing carriers at the same level of quality as used in their own networks. We tentatively conclude that incumbent LECs must measure the quality of interconnection through three different means. As discussed above, we tentatively conclude that incumbent LECs must report separately for interconnection trunks when disaggregating the ordering and provisioning measurements, as well as the repair and maintenance measurements. We also tentatively conclude, as discussed below, that incumbent LECs must report on two sets of interconnection measurements, one for trunk blockage and one for collocation. These two sets of measurements are intended to reveal the quality of interconnection provided to competing carriers.

a. Trunk Blockage. 73. We tentatively conclude that incumbent LECs must measure trunk blockage, *i.e.*, blockage on final trunk groups within their networks. Blockage on these final trunk groups prevents end user calls from reaching their final destination. The inability of a competing carrier's end users to complete or receive calls has a direct impact on the customer's perception of the competing carrier's quality of service.

74. We believe that competing carriers' traffic can be blocked at two critical points: (1) interconnection trunk groups (*e.g.*, those trunk groups connecting the incumbent LEC's end offices, access tandems, or local tandems with a competing carrier's network); or (2) common trunk groups located within the incumbent LEC's network behind the point of interconnection (*e.g.*, trunks connecting the incumbent's tandem switch with other points in the incumbent LEC's network). We therefore tentatively conclude that an incumbent LEC measure on blockage on both sets of trunk groups. We seek comment on these tentative conclusions.

75. We seek comment on certain general issues associated with measuring trunk blockage. We recognize that inferior service is generally indicated by repeated blockage on the same final trunk groups. We therefore seek comment on whether incumbent LECs should measure whether there is repeated blockage over the same trunk groups for an ongoing period, such as three consecutive months. We also seek comment on whether incumbent LECs should report on blockage exceeding a certain blocking standard for both interconnection and common trunk group measurements. In the *Bell Atlantic/NYNEX Merger Order,* for example, the Commission required Bell Atlantic to report on blockage exceeding a blocking standard of B.01 for interconnection trunks and B.005 for common trunks. We seek comment on whether incumbent LECs should measure blockage exceeding these standards.

76. We also seek comment on methods by which parties may evaluate whether incumbent LECs are providing interconnection in compliance with their statutory obligations under section 251(c)(2). With respect to interconnection trunks, we seek comment on the utility of comparing blockage on interconnection trunks and blockage on the incumbent LEC's interoffice trunk groups carrying its retail customers' traffic. In the *Ameritech Michigan 271* proceeding, Ameritech provided data on trunk blockage rates for both groups. The Commission determined that a higher percentage of interconnection trunking groups experienced blockage than did Ameritech's interoffice trunking groups serving its retail customers, suggesting that Ameritech's interconnection facilities did not meet the same service standards as those used within its own network. We seek comment on the value of using a comparison similar to that used in the *Ameritech Michigan 271 Order* for gauging whether interconnection trunks are provided in a nondiscriminatory manner. We also seek comment on which set of interoffice trunk groups incumbent LECs should monitor.

77. A competing carrier's ability to provide service to its customers may also be affected by blockage on common trunks located within the incumbent LEC's network behind the point of interconnection. We tentatively conclude that it is necessary to measure common trunk blockage and seek comment on appropriate methods to make such measurements. Specifically, we seek comment on whether incumbent LECs should use the common trunk data report established in BellCore Special Report SR STS–000317, "Common Trunk Transport Group Performance Data," Issue 2, September 1990. While we recognize that this report was intended to provide information about common trunk blockage to interexchange carriers (IXCs), we seek comment on whether this report can provide useful information for competing carriers as well. We also seek comment on whether incumbent LECs generally use this common trunk data report and whether all the measurements in the report are applicable to competing carriers. Additionally, we seek comment on the utility of requiring incumbent LECs to report on blockage on common trunks within their networks that connect to a point of interconnection, as well as on interoffice common trunks that are not connected to a point of interconnection. We seek comment on an incumbent LEC's ability to separately measure and report on blockage over these two types of common trunks (*i.e.*, those trunk groups that connect to a point of interconnection and those that do not) and whether information about these two types of trunk groups will assist a competing carrier in determining whether it is receiving nondiscriminatory interconnection.

78. Finally, we seek comment on whether an incumbent LEC must

measure call completion rates to demonstrate that it is satisfying the statutory requirements of section 251(c)(2). In measuring call completion rates, an incumbent LEC would compare the percentage of calls completed by incumbent LEC customers to competing carrier customers, relative to the percentage of calls completed by incumbent LEC customers to other incumbent LEC customers. In the *Ameritech Michigan 271 Order*, the Commission noted that data regarding the rate of call completion would be useful in assessing the quality of interconnection. We seek comment on the utility of using this measurement to gauge the quality of interconnection provided by an incumbent LEC and on the benefits of using the call completion measurement in addition to, or instead of, the trunk blockage measurement. We also seek comment on the additional costs or burdens that such a measurement would impose on incumbent LECs.

b. Collocation. 79. We tentatively conclude that incumbent LECs must measure certain aspects of providing collocation arrangements. Section 251(c)(6) and our rules require incumbent LECs to provide physical and virtual collocation as a means of interconnection or access to unbundled network elements. Consequently, we tentatively conclude that incumbent LECs must provide measurements concerning their provision of collocation facilities to competing carriers, including the response time for initial requests for collocation. We also tentatively conclude that this measurement must be disaggregrated between virtual and physical collocation arrangements. The provision of collocation arrangements involves several steps: (1) the initial query by a competing carrier regarding space for collocation, and the incumbent LEC's response to that query; (2) the actual ordering of the collocation arrangement by the competing carrier; and (3) the completion of that arrangement by the incumbent LEC. We tentatively conclude that incumbent LECs must provide the following measurements: (1) Average Time to Respond to a Collocation Request; (2) Average Time to Provide a Collocation Arrangement; and (3) Percentage of Due Dates Missed with respect to the provision of collocation arrangements. We seek comment on the utility of these proposed measurements.

80. We tentatively conclude that the Average Time to Respond to a Collocation Request must be determined by computing the elapsed time from the incumbent LEC's receipt of a request for collocation by a competing carrier to the time the incumbent LEC responds to such a request. The Average Time to Provide a Collocation Arrangement must be calculated from the time that the competing carrier submits an order for a collocation arrangement to the time that the arrangement is made available to the competing carrier. Finally, an incumbent LEC must calculate the Percentage of Due Dates Missed by comparing the number of times it missed a committed date for providing collocation facilities to the total number of confirmed due dates for collocation arrangements during the reporting period. We also tentatively conclude that incumbent LECs must disaggregate these measurements by virtual and physical collocation arrangements. We seek comment on these tentative conclusions.

V. Reporting Procedures

81. We also propose model procedures to assist states considering how performance measurements should be reported. These model reporting procedures are intended to facilitate access by competing carriers and states to the measurements produced by the incumbent LECs so that carriers and states can determine whether incumbent LECs are satisfying their statutory obligations pursuant to section 251. This section discusses proposals regarding: (1) who should receive the reports; (2) the frequency of reports; and (3) auditing procedures.

A. Receipt of Reports

82. We seek comment on who should receive these reports from the incumbent LECs on a regular basis. We believe that the main purpose of these performance reports is to permit competing carriers to determine whether they are obtaining access consistent with the requirements of section 251. We tentatively conclude, therefore, that only those carriers that already obtain services or facilities from the incumbent LEC through an interconnection agreement, or under a statement of generally available terms, should have the opportunity to receive reports. Commenters that believe that other groups of carriers, such as those considering whether to enter the market, should also receive reports should explain why the benefits of their receiving reports outweigh the costs to incumbent LECs.

83. In order to minimize unnecessary costs or burdens for incumbent LECs, we further conclude that an incumbent LEC should provide reports to an individual competing carrier only after receiving a request from the competing carrier for such reports.

84. States may also have an interest in reviewing performance reports. With respect to whether state officials should receive a copy of the reports that we propose in this NPRM, we tentatively conclude that individual states can best assess whether they wish to receive the reports. While this Commission may not need to review reports on a regular basis, we note that the Commission could obtain the reports upon request.

85. Finally, we seek comment on whether reports should be filed with a central clearinghouse so that state commissions, other competing carriers, or the general public can review an incumbent LEC's performance in different states. We seek comment on the benefits and costs involved in developing such a clearinghouse. We also seek comment on what entity should act as a clearinghouse, e.g., a coalition of regulators (such as NARUC) or another organization.

86. We recognize that parties may be concerned about disclosing confidential measurement results if results particular to an incumbent LEC or to an individual competing carrier are reported broadly. We seek comment on the need to keep individual competing carrier information confidential and on whether only aggregate measurement results be made available to other competing carriers or to the general public.

87. With respect to incumbent LEC measurement results, we believe that individual competing carriers must have access to incumbent LEC results so that they can make a meaningful comparison with their own data. We seek comment, however, on whether incumbent LEC measurement results should be protected from disclosure to non-requesting competing carriers or to the general public. If regulatory agencies request incumbent LEC and competing carrier measurement results, we ask parties to comment on whether protective measures are necessary and to propose appropriate mechanisms to keep those results confidential. Similarly, we ask parties to comment on whether competing carriers that receive incumbent LEC measurement results should be required to limit their use and disclosure of those results and to propose appropriate mechanisms for guarding against improper use.

B. Frequency of Reports

88. We also seek comment on how frequently incumbent LECs should file performance reports with competing carriers once requested by those carriers. Specifically, we seek comment

on the costs and benefits of requiring monthly reporting, as opposed to reporting on a less frequent basis, such as quarterly. We also seek comment on how quickly an incumbent LEC should provide a performance report after it is requested.

C. Auditing Requirements

89. As part of a performance monitoring mechanism, several competing carriers proposed that competing carriers be given a reasonable opportunity to conduct audits of performance reports. These commenters have stated that periodic auditing of the performance reports is necessary to ensure that incumbent LECs are using appropriate methodologies and are accurately reporting the required measurements. We believe, however, that some audits may be unnecessary or unduly burdensome for the incumbent LEC. We therefore seek comment on the need to conduct such audits as part of a model performance monitoring scheme. We also seek comment on the types of audits that might impose undue burdens. Finally, we seek comment on mechanisms that will permit competing carriers to conduct audits, when necessary, while protecting incumbent LECs from unduly burdensome or unnecessary audits. In addressing this issue, we ask parties to comment on who should pay for the costs of the audit.

90. In addition to audits, LCUG also proposed that an incumbent LEC should make available, at a competing carrier's request, the raw data underlying a report at the same time it provides the performance report to that competing carrier.

The raw data is that data captured by the incumbent LEC, such as the individual stop and start times, that are used to produce the measurement results. The competing carrier could use this data to validate the incumbent LEC's performance measurements or to perform additional statistical tests to determine whether there is a statistically significant difference in the way in which an incumbent LEC provisions itself compared with the way in which it provisions competing carriers. We seek comment on whether model reporting procedures should include providing access to raw data at this initial stage, rather than in the context of an audit. We recognize that there may be additional burdens or costs to the incumbent LEC in providing the raw data to a competing carrier and that incumbent LECs may wish to keep data regarding services and facilities they provide to themselves confidential. We seek comment on the types and magnitudes of these burdens or costs. To the extent that commenters support regular provision of the raw data, they should explain why the advantages of obtaining such data outweigh these costs.

91. Finally, we seek comment on how long the incumbent LEC should retain the underlying data. One party proposed that an incumbent LEC retain the data for two years. We seek comment on whether this is an appropriate period for retention, or whether such a requirement is excessive if a competing carrier is also permitted to obtain the raw data on a regular basis along with the report.

VI. Evaluation of Performance Measurements

92. We believe that performance measurements and reporting requirements are necessary to ensure that incumbent LECs provide interconnection and access to OSS functions and OS/DA in compliance with the statutory requirements of section 251 of the Communications Act. As a practical matter, we expect that various parties will use the information contained in performance measurements as bases for determining whether an incumbent LEC is in compliance with the applicable statutory standards. For example, competing carriers may review the measurements to determine whether the incumbent LEC is providing access in a nondiscriminatory manner. In making this determination, parties will inevitably evaluate the results of these measurements using some preestablished set of criteria in order to determine whether the statutory requirements have been satisfied.

93. Although few parties raised the issue in the initial round of comments, several carriers have recently raised questions about how regulators and competing carriers can use the data generated by performance measurements to evaluate whether an incumbent LEC has adhered to its statutory obligations. We seek comment on whether we should recommend use of a uniform evaluation process that relies on objective criteria. We seek comment on whether such an approach will inject more consistency and predictability into determining whether an incumbent is meeting its statutory obligations. We believe that bringing more consistency and predictability to the evaluation process is supported by the pro-competitive goals of the 1996 Act and would benefit both incumbent LECs and competing carriers.

94. Incumbent LECs must comply with various statutory requirements in their provision of interconnection and access to OSS functions and operator services and directory assistance. We believe that a number of methods for evaluating performance measurements could be used to make an objective determination as to whether an incumbent LEC is meeting these statutory requirements. In particular, the few parties that have addressed this issue have proposed using statistical analysis or performance benchmarks as evaluation methodologies.

95. Statistical analysis can help reveal the likelihood that reported differences in a LEC's performance toward its retail customers and competitive carriers are due to underlying differences in behavior rather than random chance. We seek comment on whether specifying a preferred statistical methodology would assist in evaluating an incumbent LEC's performance, and on whether a uniform statistical methodology would assist in comparing the performance of incumbent LECs across regions. We seek comment on which statistical tests, if any, the Commission should recommend. We believe that simple statistical tests that are widely understood and generally accepted would most likely be perceived as fair and would lead to the least disagreement concerning the interpretation of the statistical results. We seek comment on the use of conventional statistical tests of the equality of means to determine whether observed differences in various performance measurements between an incumbent LEC's own retail customers and competing carriers are likely to reflect actual differences in performance. We also seek comment on whether tests of the equality of variances or of the equality of the proportions of each sample that exceed a given value would be useful. We seek comment on whether any assumptions associated with the statistical methods described above might not be met by the performance measurement data, and on what the appropriate statistical methodology would be in such instances. We request comment on the desirability of using other, more complex forms of statistical analysis, and on whether additional data collection would be necessary to allow use of these techniques.

96. In an *ex parte* submission AT&T proposed using three criteria to determine incumbent LEC compliance with nondiscrimination obligations, including the maximum number of comparisons failing the statistical test for nondiscrimination, the maximum number of repeating measurements failing the test, and that no extreme

differences occur between the results for the incumbent LEC and those for the competing carrier. BellSouth in another proceeding has argued that the appropriate standard is that monthly results for the competing carrier should lie within three standard deviations of the average of the incumbent LEC's monthly performance, and that the results for one of the entities should not be higher than those for the other for three consecutive months. We request comment on AT&T's and BellSouth's proposed approaches to the use of statistical tests in evaluating performance data. We note that, even if statistically significant differences appear between results for the incumbent LEC and the competing carrier, these differences may be too small to have any practical competitive consequence and may not justify a legal conclusion that the incumbent LEC has discriminated against the competing carrier. Consequently we seek comment on whether threshold values of the absolute difference, or the percentage difference, in averages of performance measures should be used in addition to measures of statistical significance. We request comment on whether the form in which an incumbent LEC makes the data available to other parties and to regulators, for instance whether the data should be continuous or in intervals, should be specified, and on whether the data should be provided in a computer file rather than on paper.

VII. Other Issues Raised by Petitioners

97. In developing model rules, we tentatively conclude that it is not appropriate at this time to undertake certain additional actions requested by petitioners. These additional actions include establishing performance standards, technical standards for OSS interfaces, and remedial measures for non-compliant incumbent LECs.

VIII. Small and Midsized LECS

98. We seek comment on whether the proposed model performance measurements and reporting requirements will impose particular costs or burdens on small, rural, or midsized incumbent LECs. We also seek comment on how the proposed model rules should be modified to take into account any particular concerns of these LECs. For example, certain incumbent LECs may believe that the proposed guidelines should be tailored to meet circumstances relating to the areas in which small, rural or midsized LECs are located.

IX. Procedural Matters

A. Ex Parte Presentations

99. This matter shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.

B. Initial Paperwork Reduction Act Analysis

100. This Notice contains either a proposed information collection. As part of its continuing effort to reduce paperwork burdens, we invite the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Notice, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Notice; OMB comments are due 60 days from date of publication of this Notice in the **Federal Register**. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

C. Initial Regulatory Flexibility Certification

101. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM) on Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided below in Part IX. D. The Commission will send a copy of the NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM on Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance and IRFA (or summaries thereof) will be provided in the **Federal Register**.

102. *Need for and Objectives of the Proposed Rule.* We are issuing the NPRM specifically seeking comment on and presenting tentative conclusions on proposed performance measurements and reporting requirements intended to measure whether an incumbent LEC is providing nondiscriminatory access to operations support services (OSS), interconnection, and operator services and directory assistance (OS/DA). We also seek comment on the use of performance standards and other methods to evaluate whether an incumbent LEC is complying with its statutory obligations under section 251. Finally, although we do not set forth proposals in this area, we seek comment on issues related to OSS interface standards and remedial provisions. Based on the comments received in the NPRM, we may issue new rules.

103. *Legal Basis.* The legal basis for any action that may be taken pursuant to the NPRM is contained in sections 1, 2, 4, 201, 202, 222, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 201, 202, 222, 251, and 303(r).

104. *Description and Estimates of the Number of Small Entities Affected by the Notice of Proposed Rulemaking.* The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by our rules. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." For the purposes of this order, the RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a "small business concern" is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business

for Standard Industrial Classification (SIC) category 4813 (Telephone Communications, Except Radiotelephone) to be an entity that has no more than 1,500 employees.

105. Although affected incumbent local exchange carriers (ILECs) may have no more than 1,500 employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they either are dominant in their field of operations or are not independently owned and operated, and are therefore by definition not "small entities" or "small business concerns" under the RFA. Accordingly, our use of the terms "small entities" and "small businesses" does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term "small incumbent LECs" to refer to any incumbent LECs that arguably might be defined by SBA as "small business concerns."

106. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (the Census Bureau) reports that at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not "independently owned and operated." For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are either small entities or small incumbent LECs that may be affected by this order.

107. *Local Exchange Carriers.* Neither the Commission nor the SBA has developed a definition of small providers of local exchange services. The closest applicable definition under the SBA's rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, or are dominant we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 small providers of local exchange service are small entities or small ILECs that may be affected by this order.

108. *Description of Projected Reporting, Recordkeeping and Other Compliance Requirements.* We are seeking comment on requiring all incumbent LECs to report on all the measurements. These proposed measurements seek to measure access provided by an incumbent LEC to all five OSS functions, as well as to interconnection and OS/DA. We also seek comment on how often incumbent LECs should provide these measurements, whether and for how long they should retain the measurement data, and whether the incumbent LEC should perform any statistical analysis of the measurement data. Finally we seek comment on reporting procedures, including: (1) whether an incumbent LEC must report separately on performance to itself, any local exchange affiliate, competing carriers in aggregate, and individual competing carriers; (2) whether an incumbent LEC should only provide performance monitoring reports to an individual competing carrier after receiving a request from the competing carrier for such reports on a regular basis; (3) how frequently an incumbent LEC should provide performance monitoring reports; (4) whether to accord confidential treatment to individual competing carrier information and incumbent LEC retail information; (5) whether an incumbent LEC should make available upon the request of a competing carrier or regulator raw data underlying a report; and (6) whether competing carriers should be entitled to ask for and obtain audits of the data underlying performance reports.

109. *Steps Taken to Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered.* In Part VIII of the NPRM, we seek comment on the expenses involved with the proposed reporting requirements and the particular burdens they would impose on small, rural, or midsized LECs, if any. In Part VIII, we also seek comment on possible alternatives to these proposed measurements and reporting requirements. We note that certain incumbent LECs might propose ways in which the Commission should tailor its proposals to meet circumstances relating to the areas in which small, rural or midsized LECs are located.

110. *Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rule.* None.

D. Comment Filing Procedures

111. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. Please note, however, that comments and reply comments may be filed electronically. If you want each Commissioner to receive a personal copy of your comments, you must file an original and nine copies.

112. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.49 and all other applicable sections of the Commission's rules. We also direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

113. Parties are also asked to submit comments and reply comments on diskette. Such diskette submissions would be in addition to and not a substitute for the formal filing requirements addressed above. Parties submitting diskettes should submit them to Janice Myles of the Common Carrier Bureau, 1919 M Street, N.W., Room 544, Washington, D.C., 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible form using MS DOS 5.0 and WordPerfect 5.1 software. The diskette should be submitted in "read only" mode. The diskette should be clearly labeled with the party's name, proceeding, type of pleading (comment or reply comments) and date of submission. The diskette should be accompanied by a cover letter.

114. You may also file informal comments or an exact copy of your formal comments electronically via the Internet. To file electronic comments in this proceeding, you may use the electronic filing interface available on the FCC's World Wide Web site at <http://dettifoss.fcc.gov:8080/cgi-bin/ws.exe/beta/ecfs/upload.hts>.

Only one copy of electronically-filed comments must be submitted. Further information on the process of submitting comments electronically is available at that location and at <http://www.fcc.gov/e-file/>.

X. Ordering Clauses

115. Accordingly, *it is ordered* that, pursuant to sections 1, 2, 4, 201, 202, 222, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, 201, 202, 222, 251, and 303(r), a *notice of proposed rulemaking is adopted*

116. *It is further ordered* that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Notice of proposed rulemaking,* including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act, *see* 5 U.S.C. 605(b).

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–12971 Filed 5–14–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 98050115–8115–01; I.D. 032498A]

RIN 0648–AK86

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Compensation for Collecting Resource Information

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

ACTION: Proposed emergency rule; request for comments.

SUMMARY: This action, authorized by the Magnuson-Stevens Act, proposes provisions by which a vessel owner or operator who has collected resource information according to a NMFS-approved protocol may be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions. This action is intended to improve the types and amounts of scientific information available for use in stock assessments and management of the Pacific coast groundfish fishery. It is necessary to implement this action under the Magnuson-Stevens Act emergency rulemaking authority so that NMFS may contract with commercial fishing vessels to conduct resource surveys during the summer of 1998. The Pacific Fishery Management Council (Council) is considering an amendment to the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) that would continue this compensation initiative beyond 1998.

DATES: Comments will be considered if received on or before June 5, 1998.

ADDRESSES: Send comments to William Stelle, Jr., Administrator, Northwest Region, (Regional Administrator) NMFS, 7600 Sand Point Way NE., Seattle, WA 98115; or William T. Hogarth, Administrator, Southwest Region, (Regional Administrator) NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Other information relevant to this proposed emergency rule is available for public review during business hours at the Office of the Administrator, Northwest Region, NMFS. Copies of the environmental assessment/regulatory impact review are also available from that address. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirements in this proposed emergency rule, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office on Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

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

SUPPLEMENTARY INFORMATION: NMFS is proposing an emergency rule and requesting comments on the proposal to allow owners or operators of vessels that collect resource information to be compensated with the opportunity to harvest fish in excess of current vessel limits and/or outside other restrictions [hereinafter "compensated with fish"]. The Council recommended at its November 1997 meeting in Portland, OR, that NMFS proceed with this proposal immediately so that NMFS may so contract with commercial fishing vessels to conduct resource surveys during the summer of 1998.

The fishing industry, environmental groups, and NMFS have actively explored various ways to expand and improve information used in management of the groundfish fishery and to involve the fishing industry in gathering that information. Part of this effort involves finding more creative means of compensating a fishing vessel's owner or operator with fish for participating in collecting resource information. On October 11, 1996, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) was amended to authorize the Secretary of Commerce (Secretary) to use the private sector to provide vessels, equipment, and services necessary to survey fishery resources and to pay for these surveys through the sale of fish taken during the survey or, if the quality or amount of fish is not adequate, on a subsequent, commercial fishing trip (sec. 402(e)). Section 303(b)(11) of the Magnuson-Stevens Act enables the Secretary to "reserve a portion of the allowable biological catch of the fishery for use in scientific research." A vessel that is chartered by NMFS to conduct resource surveys becomes a "scientific research vessel" as defined at 50 CFR 600.10, and it may not conduct commercial fishing on the same trip during which a resource survey is conducted.

Background

These provisions must be implemented as quickly as possible in order to include compensation with fish as a component of contracts NMFS will award to commercial fishing vessels to conduct resource surveys during the summer of 1998. Stock assessments for the Dover sole/thornyhead/trawl-caught sablefish (DTS) complex are controversial and have resulted in serious concern over the amount and accuracy of survey data. NMFS is committed to addressing these concerns. However, Federal fiscal constraints have precluded gathering the information needed. This is further compounded by the unavailability of the NOAA ship *Miller Freeman*, the principle vessel used for conducting resource surveys in this fishery, during much of 1998. Implementation of these provisions would enable NMFS to expand sampling in the annual slope survey which provides data for the stock assessments for these and other groundfish species. There is inadequate time to amend the PCGFMP to provide for using fish as compensation (and subtracting the compensation fish from acceptable biological catch (ABC)) before the slope survey is scheduled to begin on August 1, 1998. Therefore, NMFS is proposing this rule under the Secretary's emergency rulemaking authority of the Magnuson-Stevens Act so that these provisions may be implemented in time to support the 1998 slope survey. Concurrently, the Council is preparing an amendment to the PCGFMP for later implementation.

Compensation for a Vessel Conducting a Resource Survey

The Magnuson-Stevens Act authorizes the Secretary, in consultation with the Council and the interested public, to structure competitive solicitations by which a vessel's owner or operator may compete for a contract with NMFS to conduct a resource survey. Resource surveys generally are conducted from chartered fishing vessels, chartered university vessels, and dedicated NOAA vessels. In a resource survey, all samples (fish) are collected according to a specified research plan or protocol. NMFS distinguishes survey activities by a scientific research vessel from commercial fishing activities according to a process of acknowledging scientific research described at 50 CFR 600.745(a). NMFS frequently uses this mechanism to conduct surveys from chartered fishing vessels, and, in some cases, some of the sample has been retained by the vessel owner/operator for sale to reduce waste and to defray some of the costs of the charter. However, any additional harvest taken on a subsequent, commercial trip as payment for the resource survey would not be considered scientific research, and thus, was not authorized under the old provisions of the Magnuson-Stevens Act.

The new provisions of the Magnuson-Stevens Act provide the authority to go beyond allowing the retention and sale of fish caught during the course of a resource survey by providing compensation through the opportunity to harvest fish in excess of current vessel limits and/or outside of other restrictions. This rule proposes to authorize such "compensation fishing" through the issuance of an exempted fishing permit (EFP) in the Pacific Coast groundfish fishery, which would enable the vessel to exceed trip limits (and/or to be exempt from other specified management restrictions) so that the compensation amount could be achieved. The compensation EFP would include terms and conditions that would limit the authorized activities. Conditions for disposition of bycatch or any excess catch and for reporting the value of the amount landed and other appropriate terms and conditions would be specified in the EFP. If the PCGFMP is amended, it is anticipated that compensation fishing would occur no later than the end of September of the year after the survey occurred. Compensation fishing must take place during the period specified in the EFP and must be conducted according to the terms and conditions of the EFP. The compensation EFP may also require the vessel owner or operator to keep separate records of compensation fishing conducted after the survey is completed and to submit them to NMFS within a specified period of time after the compensation fishing is completed. NMFS and the States of Washington, Oregon, and California may need to modify their catch reporting systems, if necessary, so that fish taken under the compensation EFP are counted separately from commercial landings.

Process

The process incorporates selection of commercial vessels to be used to conduct the resource surveys, issuance of compensation EFPs to provide for compensation with fish, and adjustment of the ABC to account for the compensation fish used.

Competitive Offers

NMFS may initiate a competitive solicitation (request for proposals, or RFP) to select vessels to conduct resource surveys that use fish as full or partial compensation. The RFP would be publicized in the *Commerce Business Daily* and would specify factors that NMFS would use in evaluating the proposals. Vessel owners would be expected to submit offers to conduct the resource survey for a combination of dollars and compensation fish.

Consultation

At a Council meeting, NMFS would consult with the Council and receive public comment on upcoming resource surveys to be conducted with groundfish used as whole or partial compensation. For each proposal, NMFS would present (1) the maximum number of vessels expected or needed to conduct the survey, (2) an estimate of the species and amount of fish likely to be needed to compensate the vessel, (3) when the survey and the compensation fish would be taken, and (4) the year in which the compensation fish would be deducted from the ABC before determining the harvest guideline (HG) or quota. This is, in effect, equivalent to NMFS presenting a compensation EFP application to the Council for the compensation amounts. In general, compensation fish should be similar to surveyed species, but there may be reasons to provide compensation with healthier, more abundant, less restricted, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS may also want to take into account other factors such as expected discards and incidental catches of other species. If the Council does not approve the proposal to use fish as compensation to pay for a resource survey, NMFS would not use fish, other than fish taken during the scientific research, as compensation for that survey.

Awarding the Contract

NMFS would negotiate and award the resource survey contracts in accordance with normal Federal procurement procedures. The contract would include any conditions and limits on compensation fishing, including a requirement to carry on board (1) a letter of acknowledgment of research signed by the Regional Administrator or designee, while conducting any resource survey, and (2) the compensation EFP while conducting compensation fishing and for a period of at least 15 days after the end of any applicable cumulative trip limit period in which compensation fishing occurred.

Retention of Samples

All fishing on a resource survey trip would be required to be conducted according to scientific protocol and would be considered scientific research. However, some fish caught while conducting the survey could be retained and sold as compensation for the vessel's participation. Retention of samples for sale would be at the discretion of the chief scientist aboard, who would consult with the vessel captain. Collection of scientific information and samples would be the highest priority and might interfere with the vessel's ability to retain market-quality fish.

Issuance of the Compensation EFP

Upon successful completion of the resource survey and determination of the amount and/or value of the survey sample that was retained for sale as payment for conducting the survey, NMFS would issue a compensation EFP to the owner or operator of the vessel if full compensation has not been achieved by the cash payment and retention of the survey sample. The compensation EFP would allow the vessel an opportunity to exceed the current commercial fishing limits by the total amount of compensation fish needed. The amount of compensation fish needed is the amount of fish specified in the contract less the amount and/or value of the survey sample retained for sale. The compensation EFP

also would exempt the vessel from other specified management measures.

Accounting for Compensation Fish

Because the species and amounts of fish used as compensation would not be determined until the contract is awarded, it may not be possible to deduct the amount of compensation fish from the ABC or HG in the year that the fish are caught. Even if this could be done, it would cause great confusion with the many allocations and limits that were set before the compensation amounts were known. NMFS, therefore, proposes that the compensation fish be deducted from the ABC the year after they are caught. During the annual specification process (50 CFR 660.321(b)), NMFS would advise the Council of the total amount of fish caught during the year as compensation for conducting a resource survey, which then would be deducted from the following year's ABCs before setting the HGs or quotas.

Compensation for a Commercial Vessel Collecting Resource Information—an EFP With a Compensation Clause

NMFS also intends to conduct smaller-scale cooperative projects on vessels that are operating in the commercial fishery. This type of activity would not be considered scientific research under 50 CFR 600.745(a) because it would not be conducted by a scientific research vessel, even though the vessels would be collecting resource information according to strict scientific standards approved by NMFS. For small-scale cooperative projects, NMFS could issue EFPs to fishing vessels collecting the resource information. The EFP would require the vessel to conduct specific activities and allow it to retain and sell a limited amount of fish above the amount it could take under its regular trip limit. After the resource information has been obtained, the EFP could authorize the vessel to sell the fish that were in the sample. This would be a standard EFP, issued under the procedures at 50 CFR 600.745(b). Fish caught under this EFP would be counted against the ABCs and HGs or quotas in the year they are caught.

In some circumstances, NMFS might want to allow the vessel to harvest slightly more fish than necessary for the particular project. (For the sablefish depth-specific sampling EFP expected in 1998, a vessel would be able to retain the sample plus a modest compensation amount, no larger than the size of the sample, above its normal trip limits. Samples in these cases generally would be expected to involve less than 500–1,500 lb (227–680 kg) of fish per vessel per month. The extra fish would compensate the vessel for the extra work involved in collecting the samples, may encourage vessels to participate in surveys, and would utilize more of the fish taken during the surveys that is surplus to sampling needs. NMFS could propose the amount of fish that would be used as compensation, or the EFP applicant could propose an amount in the EFP application. In these cases, when NMFS announces receipt of the EFP application and requests comments as required under 50 CFR 600.745(b), NMFS would also announce a window period during which vessels would have an opportunity to submit EFP applications. NMFS contemplates two ways of issuing such EFPs: First, the EFPs could be issued to individuals implementing a protocol approved by NMFS. NMFS would consider the qualified applicants, issue EFPs to all of them, select participation by lottery, issue EFPs to the first applicants, or use other impartial selection methods. Second, NMFS could issue the EFP to a NMFS element, or a state or other Federal research agency, and the research agency's proposal would include an impartial way of selecting fishing vessel participants that would receive individual EFPs under the umbrella EFP held by the research agency.

The following analysis focuses on the use of compensation fishing in the context of chartering vessels to conduct resource surveys because the issues and impacts are of a much greater magnitude than those involved in an EFP with a compensation clause.

Biological Impacts

The biological impacts of using fish as compensation would be

expected to be neutral in the short term and positive in the long term. In the short term; the amount of fish used as compensation is intended to be within the ABC, and therefore, would be within current acceptable biological levels. In general, NMFS would be most likely to compensate the owner or operator of a vessel with identical or similar species to those taken in the resource survey. However, NMFS may decline to compensate a vessel with certain species, particularly stocks that are (or are expected to be) overfished, subject to overfishing, or have bycatch that are overfished (or are expected to be) or are subject to overfishing. In the long term, the additional information that is gathered because NMFS is able to compensate vessels with fish will provide more and better data for use in stock assessments, which should result in better management of the stock and less likelihood of overfishing.

Socio-economic Impacts

The amount of the compensation fish (as a percentage of the ABC) would depend on the value of the compensation species and the cost of the survey. The cost of the survey is relatively fixed, regardless of the abundance and value of the species surveyed. The contract for an extensive survey (e.g., 2 vessels for 60 days at sea each), such as the current NMFS triennial trawl survey, would probably cost less than $450,000, under 0.5 percent of the landed value of all Pacific coast groundfish, 590 million, or approximately 1 percent of the $45 million value of the 1996 fisheries for the Dover sole, thornyheads, trawl-caught sablefish complex (DTS). A smaller scale survey targeted on nearshore flatfish (e.g., Petrale sole, English sole, rex sole) would cost close to $175,000, 2.5 percent of the value of this $7 million flatfish fishery. However, not all components of the groundfish fishery are useful as compensation fish. Only those groundfish species for which there is a constraining trip limit, season, or other management restriction would be desirable targets as compensation because a vessel is not limited in its catch of other groundfish species. Thus, the above comparison that is most relevant to this discussion is the one for the DTS complex. An unfortunate aspect is that most depressed stocks (such as Pacific ocean perch) cannot afford an allocation of compensation fish, while most healthy stocks (like English sole) have no trip limits or allocations that would be desirable compensation. These considerations do not diminish the utility of using fish as compensation, but they do limit the range of species that could be considered as payment.

Vessels engaged in extended resource surveys may not have an adequate opportunity to take their monthly commercial trip limit. The contract and EFP may address the possibility of allowing the take of a monthly trip limit outside the normal period as one of the activities that might be provided as compensation for conducting the survey.

The amount of compensation fish awarded to a survey vessel would be deducted from the subsequent year's ABC. If compensation fish comprise a large proportion of an HG or quota, then potentially trip or bag limits for that species could be lowered, or other constraints on the fishery could be necessary. However, the amounts used as compensation are expected to be less

than 5 percent of an ABC, well within the range of uncertainty associated with ABCs, inseason catch monitoring, and trip limit derivations. Therefore, it is not likely that awarding fish for compensation would result in lower trip limits or additional or earlier restrictions, although potentially this could occur.

Because the amount of fish used for compensation would be subtracted "off the top" of the ABC, the loss of compensation fish would be shared among all sectors and vessels (commercial, recreational, and tribal) in the fishery.

Use of compensation fish would reduce the Federal outlay of capital, although it would increase the Federal workload by adding additional EFP procedures and potentially complicating the determination of acceptable charter offers for resource surveys.

Use of fish as compensation for conducting resource surveys should increase the participation and interest by members of

the fishing industry, many of whom have been skeptical of NMFS's data and survey procedures. The resulting cooperation between industry and government would provide scientists with valuable guidance from veteran fishers and would provide industry with first-hand insight into scientific sampling procedures.

A survey vessel would receive an extra financial benefit under this proposed process; however, the recipient and level of the benefit would be determined through a competitive process.

Using fish as compensation would enable more data to be gathered than would otherwise be possible. This should lead to better stock assessments and a better long-term prognosis for a sustainable fishery and thus contribute to stability in the fishing industry and in the resources upon which the industry depends.

Classification

This emergency rule has been determined to be not significant for purposes of Executive Order 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

NMFS has established standards for determining whether an action will have a significant economic impact on a substantial number of small entities. NMFS has determined that, in general, a substantial number of small entities would be 20 percent of those small entities affected by the rule. Economic impacts on small entities are considered to be "significant" if the proposed action would result in any of the following: (a) reduction in annual gross revenues by more than 5 percent; (b) increase in total costs of production by more than 5 percent as a result of an increase in compliance costs; (c) compliance costs as a percent of sales for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities; (d) capital cost of compliance represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or, (e) as a rule of thumb, 2 percent of small business entities being forced to cease business operations. The proposed rule would result in no additional compliance costs, and therefore items (b), (c), and (d) are not at issue. Item (e) is not relevant as this action would not force any business to cease operations. Only (a) appears potentially relevant to this issue.

This proposed rule could affect a maximum of 2,270 vessels. Of these, approximately 2,260 (almost 100 percent) are considered small entities. The rule is expected to have several different types of impacts. For vessels that obtain contracts to conduct research in exchange for fish, this rule would provide increased opportunity for profit. This rule is also expected to lead to the availability of increased scientific data on the status of the fishery. The availability of this data will enhance the ability of the agency to manage the fishery and is likely to lead to long-term benefits for all participants.

There is also the small possibility that this rule could result in negative economic impacts on some fishery participants. The fish that are awarded as compensation would be deducted from next year's acceptable biological catch. The amounts likely to be diverted for compensation would be so small as to be within the range of accuracy expected for inseason monitoring of harvest guidelines and quotas, and most likely would not change the size of trip limits or their date of achievement. However, there is a remote possibility that some trip limits would be lowered, or lowered earlier, as a result of the small compensation allocation for survey vessels. If this happens, those vessels that routinely achieve their Dover sole, thornyhead, and trawl-caught sablefish (DTS) limits could experience some degree of economic loss. NMFS estimates that approximately 208 limited entry vessels achieved these limits during at least one trip-limit period between July 1996-June 1997. Thus, 9 percent (208 vessels/2,260 vessels of the affected small entities) could hypothetically experience some economic loss as a result of this rule. NMFS estimates that the total cost of the 1998 compensation fish would be $135,000. If this amount is divided between the limited entry and open access fleets in proportion to their share of the fishery, then the cost to the limited entry fleet would be approximately $128,000 and the cost to the open access fleet would be approximately $7,000.

If the entire $128,000 share of the survey cost for the limited entry fleet were supported by the 208 vessels that achieved a cumulative trip limit of one DTS species during one trip-limit period, the average cost to each of these 208 vessels would be $615. The average annual fishing revenue for limited entry vessels in 1996 was $204,000. Thus, the average cost per vessel of spreading the $128,000 cost among 208 vessels would be 0.3 percent ($615 divided by $204,000). In addition, NMFS notes that the smallest 12-month revenue for any of these 208 vessels was $15,000, 5 percent of which is $750, which is higher than the $615 average cost of the compensation fish for these 208 vessels. As the vessel revenue increases, which it does for the remaining 207 vessels, the relative impact of the cost of compensation fish becomes smaller, and remains less than 5 percent. From a slightly different perspective, if the cost associated with using fish as compensation were $128,000 and were distributed amongst the limited entry vessels in proportion to the number of periods in which they attained a limit (during July 1996-June 1997), then the largest reduction in annual revenue for any vessel would be 0.5 percent. NMFS does not anticipate lowering trip limits in the open access fishery, because the maximum amount of fish that this rule could possibly reduce the open access fishery by ($7,000 worth) is so small.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under OMB control number 0648–0203 for Federal fishing permits. Notwithstanding any other provision of 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 PRA unless that collection of information displays a currently valid OMB control number. The public reporting burden for applications for exempted fishery permits is estimated at 1 hour per response; burden for reporting by exempted fishing permittees is estimated at 30 minutes per response. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and revising the collection of information.

Public comment is invited regarding: Whether this proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information

technology. Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

List of Subjects in 50 CFR Part 660

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

Dated: May 11, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

2. In § 660.306, paragraph (d) is revised to read as follows:

§ 660.306 Prohibitions.

* * * * *

(d) Fish for groundfish in violation of any terms or conditions attached to an EFP under 50 CFR 600.745 or 660.350.

* * * * *

3. In subpart G, a new § 660.350 is added to read as follows:

§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

In addition to the reasons stated in § 600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. The EFP would allow a vessel to retain fish as compensation in excess of trip limits, or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) *Compensation EFP.* A compensation EFP may be issued to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in terms of dollars or tons of fish and including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish that may be retained by the vessel after the resource survey is completed.

(1) *Competitive offers.* NMFS may initiate a competitive solicitation (request for proposals or RFP) to select vessels to conduct resource surveys that use fish as full or partial compensation, following normal Federal procurement procedures.

(2) *Consultation.* At a Council meeting, NMFS will consult with the Council and receive public comment on upcoming resource surveys to be conducted if groundfish could be used as whole or partial compensation. For each proposal, NMFS will present:

(i) The maximum number of vessels expected or needed to conduct the survey,

(ii) An estimate of the species and amount of fish likely to be needed as compensation,

(iii) When the survey and compensation fish would be taken, and

(iv) The year in which the compensation fish would be deducted from the ABC before determining the harvest guideline or quota. Generally, compensation fish would be similar to surveyed species, but there may be reasons to provide payment with healthier, more abundant, less restricted stocks, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, or that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS also may also consider levels of discards, bycatch, and other factors. If the Council does not approve providing whole or partial compensation for the conduct of a survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey.

(3) *Issuance of the compensation EFP.* Upon successful completion of the survey, NMFS will issue a "compensation EFP" to the vessel if it has not been fully compensated. The procedures in § 600.745(b)(1) through (b)(4) of this chapter do not apply to a compensation EFP issued under this subpart for the Pacific coast groundfish fishery (50 CFR Part 660, subpart G).

(4) *Terms and conditions of the compensation EFP.* Conditions for disposition of bycatch or any excess catch, for reporting the value of the amount landed, and other appropriate terms and conditions will be specified in the EFP. Compensation fishing must occur during the period specified in the EFP, but no later than the end of September of the fishing year following the survey, and must be conducted according to the terms and conditions of the EFP.

(5) *Reporting the compensation catch.* The compensation EFP may require the vessel owner or operator to keep separate records of compensation fishing and to submit them to NMFS within a specified period of time after the compensation fishing is completed.

(6) *Accounting for the compensation fish.* As part of the annual specification process (50 CFR 660.321), NMFS will advise the Council of the amount of fish retained under a compensation EFP, which then will be deducted from the next year's ABCs before setting the HGs or quotas.

(b) *EFP with a compensation clause.* An EFP may be issued to a commercial fishing vessel for the purpose of collecting resource information in excess of current management limits (50 CFR 600.745(b)). The EFP may include a compensation clause that allows the participating vessel to be compensated with fish for its efforts to collect resource information according to NMFS' approved protocol. If compensation with fish is requested in an EFP application, or proposed by NMFS, the following provisions apply in addition to those at 50 CFR 600.745(b).

(1) *Application.* In addition to the requirements in § 600.745(b) of this chapter, application for an EFP with a compensation clause must clearly state whether a vessel's participation is contingent upon compensation with groundfish and, if so, the minimum amount (in metric tons, round weight) and the species. As with other EFPs issued under § 600.745 of this chapter, the application may be submitted by any individual, including a state fishery management agency or other research institution.

(2) *Denial.* In addition to the reasons stated in § 600.745(b)(3)(iii) of this chapter, the application will be denied if the requested compensation fishery, species, or amount is unacceptable for reasons such as, but not limited to, the following: NMFS concludes the value of the resource information is not commensurate with the value of the compensation fish; the proposed compensation involves species that are (or are expected to be) overfished or subject to overfishing, fishing in times or areas where fishing is otherwise prohibited or severely restricted, or fishing for species that would involve unavoidable bycatch of species that are overfished or subject to overfishing; or NMFS concludes the information can

reasonably be obtained at less cost to the resource.

(3) *Window period for other applications.* If the RA or designee agrees that compensation should be considered, then a window period will be announced in the **Federal Register** during which additional participants will have an opportunity to apply. This notification would be made at the same time as announcement of receipt of the application and request for comments required under § 660.745(b). If there are more qualified applicants than needed for a particular time and area, NMFS will choose among the qualified vessels, either randomly, in order of receipt of the completed application, or by other impartial selection methods. If the permit applicant is a state, university, or Federal entity other than NMFS and NMFS approves the selection method, the permit applicant may chose among the qualified vessels, either randomly, in order of receipt of the vessel application, or by other impartial selection methods.

(4) *Terms and conditions.* The EFP will specify the amounts that may be taken as scientific samples and as compensation, the time period during which the compensation fishing must occur, management measures that are waived while fishing under the EFP, and other terms and conditions appropriate to the fishery and the collection of resource information. NMFS may require compensation fishing to occur on the same trip that the resource information is collected.

(5) *Accounting for the catch.* Samples taken under this EFP, as well as any compensation fish, are counted toward the current year's catch or landings.

[FR Doc. 98–13049 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 94
Friday, May 15, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Seedway of Hall, New York, an exclusive license to Plant Variety Protection Certificate Application No. 9800028, Soybean, "Donegal" filed November 19, 1997. "Donegal" is a forage soybean cultivar recommended for forage production in the northeastern states and is not intended for grain production. "Donegal's" Notice of Availability was published in the **Federal Register** on January 8, 1998.

DATES: Comments must be received on or before July 14, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

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

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Seedway submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.

Assistant Administrator.

[FR Doc. 98–13007 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Wolf River Valley Seeds of White Lake, Wisconsin, an exclusive license to Plant Variety Protection Certificate Application No. 9800027, Soybean, "Derry" filed November 19, 1997. "Derry" is a forage soybean cultivar recommended for forage production in the northern midwestern states and is not intended for grain production. "Derry's" Notice of Availability was published in the **Federal Register** on January 8, 1998.

DATES: Comments must be received on or before July 14, 1998.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC-West, Beltsville, Maryland 20705–2350.

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

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Wolf River Valley Seeds submitted a complete and sufficient application for a license. The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr,

Assistant Administrator.

[FR Doc. 98–13004 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–119–2]

AgrEvo USA Co.; Availability of Determination of Nonregulated Status for Corn Genetically Engineered for Insect Resistance and Glufosinate Herbicide Tolerance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our determination that the AgrEvo USA Company's corn line designated as Transformation Event CBH–351, which has been genetically engineered for insect resistance and glufosinate herbicide tolerance, is no longer considered a regulated article under our regulations governing the introduction of certain genetically engineered organisms. Our determination is based on our evaluation of data submitted by AgrEvo USA Company in its petition for a determination of nonregulated status, an analysis of other scientific data, and our review of comments received from the public in response to a previous notice announcing our receipt of the AgrEvo USA Company's petition. This notice also announces the availability of our written determination document and its associated environmental assessment and finding of no significant impact.

EFFECTIVE DATE: May 8, 1998.

ADDRESSES: The determination, an environmental assessment and finding of no significant impact, the petition, and all written comments received regarding the petition may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday,

except holidays. Persons wishing to inspect those documents are requested to call before visiting on (202) 690–2817 to facilitate entry into the reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Susan Koehler, Biotechnology and Biological Analysis, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 734–4886. To obtain a copy of the determination or the environmental assessment and finding of no significant impact, contact Ms. Kay Peterson at (301) 734–4885; e-mail: mkpeterson@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On September 22, 1997, the Animal and Plant Health Inspection Service (APHIS) received a petition (APHIS Petition No. 97–265–01p) from AgrEvo USA Company (AgrEvo) of Wilmington, DE, seeking a determination that a corn line designated as Transformation Event CBH–351 (event CBH–351), which has been genetically engineered for insect resistance and glufosinate herbicide tolerance, does not present a plant pest risk and, therefore, is not a regulated article under APHIS' regulations in 7 CFR part 340.

On February 23, 1998, APHIS published a notice in the **Federal Register** (63 FR 8897–8898, Docket No. 97–119–1) announcing that the AgrEvo petition had been received and was available for public review. The notice also discussed the role of APHIS, the Environmental Protection Agency, and the Food and Drug Administration in regulating the subject corn line and food products derived from it. In the notice, APHIS solicited written comments from the public as to whether this corn line posed a plant pest risk. The comments were to have been received by APHIS on or before April 24, 1998. During the designated 60-day comment period, APHIS received 2,271 form letters from farmers expressing support for the subject petition, and a comment letter from a research entomologist at a research unit of the U.S. Department of Agriculture's Agricultural Research Service providing data and information that event CBH–351 corn effectively controls European corn borer (ECB) during all corn developmental stages.

Analysis

Corn event CBH–351 has been genetically engineered to express a Cry9C insect control protein derived from the common soil bacterium *Bacillus thuringiensis* subsp. *tolworthi* (*Bt tolworthi*). The petitioner stated that the Cry9C protein is effective in protecting the subject corn line from damage caused by ECB larvae throughout the growing season. The subject corn line also expresses the *bar* gene derived from the bacterium *Streptomyces hygroscopicus*. The *bar* gene encodes the phosphinothricin acetyltransferase (PAT) enzyme, which, when introduced into the plant cell, confers tolerance to the herbicide glufosinate. The particle bombardment method was used to transfer the added genes into the recipient inbred corn line (PA91 x H99) x H99, and their expression is controlled in part by gene sequences derived from the plant pathogens *Agrobacterium tumefaciens* and cauliflower mosaic virus. While the subject corn line contains the *bla* selectable marker gene, which is normally expressed in bacteria, tests indicate that this gene is not expressed in the plant.

The subject corn line has been considered a regulated article under APHIS' regulations in 7 CFR part 340 because it contains gene sequences derived from plant pathogens. However, evaluation of field data reports from field tests of the corn conducted under APHIS notifications since 1995 indicates that there were no deleterious effects on plants, nontarget organisms, or the environment as a result of the environmental release of corn event CBH–351.

Determination

Based on its analysis of the data submitted by AgrEvo, a review of other scientific data and field tests of the subject corn line, and an analysis of comments from the public on the subject petition, APHIS has determined that corn event CBH–351: (1) Exhibits no plant pathogenic properties; (2) is no more likely to become a weed than corn lines developed by traditional breeding techniques; (3) is unlikely to increase the weediness potential for any other cultivated or wild species with which it can interbreed; (4) will not cause damage to raw or processed agricultural commodities; (5) will not harm threatened or endangered species or other organisms, such as bees, that are beneficial to agriculture; and (6) should not reduce the ability to control insects and weeds in corn or other crops when cultivated. Therefore, APHIS has concluded that the subject corn line and any progeny derived from crosses with other corn varieties will be as safe to grow as corn that is not subject to regulation under 7 CFR part 340.

The effect of this determination is that AgrEvo's corn event CBH–351 is no longer considered a regulated article under APHIS regulations in 7 CFR part 340. Therefore, the requirements pertaining to regulated articles under those regulations no longer apply to the field testing, importation, or interstate movement of the subject corn or its progeny. However, importation of corn event CBH–351 or seeds capable of propagation are still subject to the restrictions found in APHIS' foreign quarantine notices in 7 CFR part 319.

National Environmental Policy Act

An environmental assessment (EA) has been prepared to examine the potential environmental impacts associated with this determination. The EA was prepared in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA)(42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on that EA, APHIS has reached a finding of no significant impact (FONSI) with regard to its determination that AgrEvo's corn event CBH–351 and lines developed from it are no longer regulated articles under its regulations in 7 CFR part 340. Copies of the EA and the FONSI are available upon request from the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 11th day of May 1998.

Charles P. Schwalbe,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–13006 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Newspaper To Be Used for Publication of Legal Notice of Appealable Decisions and Publications of Notice of Proposed Actions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, West Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Deciding Officers in the Southern Region will publish notice of decisions subject to administrative appeal under 36 CFR parts 215 and 217 in the legal notice section of the newspapers listed in the Supplementary Information section of this notice. As

provided in 36 CFR part 215.5(a) and 36 CFR part 217.5(d), the public shall be advised through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notice of decisions. Newspaper publication of notice of decisions is in addition to direct notice of decisions to those who have requested notice in writing and to those known to be interested in or affected by a specific decision. In addition, the Responsible Official in the Southern Region will also publish notice of proposed actions under 36 CFR part 215 in the newspaper that are listed in the Supplementary Information section of this notice. As provided in 36 CFR part 215.5(a), the public shall be advised, through **Federal Register** notice, of the principal newspapers to be utilized for publishing notices on proposed actions.

DATES: Use of these newspapers for purposes of publishing legal notice of decisions subject to appeal under 36 CFR parts 215 and 217, and notices of proposed actions under 36 CFR part 215 shall begin on or after the date of this publication.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning, 1720 Peachtree Road, NW, Atlanta, Georgia 30367–9102, Phone: 404–347–4867.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 and the Responsible Officials in the Southern Region will give notice of decisions subject to appeal under 36 CFR part 215 in the following newspapers which are listed by Forest Service administrative unit. Responsible Officials in the Southern Region will also give notice of proposed actions under 36 CFR part 215 in the following principal newspapers which are listed by Forest Service administrative unit. The timeframe for comment on a proposed action shall be based on the date of publication of the notice of the proposed action in the principal newspaper. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper for both 36 CFR parts 215 and 217.

Where more than one newspaper is listed for any unit, the first newspaper listed is the principal newspaper that will be utilized for publishing the legal notices of decisions. Additional newspapers listed for a particular unit are those newspapers the Deciding Officer expects to use for purposes of providing additional notice. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper.

The following newspaper will be used to provide notice.

Southern Region

Regional Forester Decisions
Affecting National Forest System lands in more than one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico.
Atlanta Journal, published daily in Atlanta, GA

Southern Region

Regional Forester Decisions:
Affecting National Forest System lands in only one state of the 13 states of the Southern Region and the Commonwealth of Puerto Rico or only one Ranger District will appear in the principal newspaper elected by the National Forest of that state or Ranger District.

National Forests in Alabama, Alabama

Forest Supervisor Decisions:
Montgomery Advertiser, published daily in Montgomery, AL
District Ranger Decisions:
Bankhead Ranger District: *Northwest Alabamian*, published weekly (Monday & Thursday) in Haleyville, AL
Conecuh Ranger District: *The Andalusia Star*, published daily (Tuesday through Saturday) in Adulusia, AL
Oakmulgee Ranger District, *The Tuscaloosa News*, published in Tuscaloosa, AL
Shoal Creek Ranger District: *The Anniston Star*, published daily in Anniston, AL
Talladega Ranger District: *The Daily Home*, published daily in Talladega, AL
Tuskegee Ranger District: *Tuskegee News*, published weekly (Thursday) in Tuskegee, AL

Caribbean National Forest, Puerto Rico

Forest Supervisor Decisions:
El Nuevo Dia, published daily in Spanish in San Juan, PR
San Juan Star, published daily in English in San Juan, PR

Chattahoochee-Oconee National Forest, Georgia

Forest Supervisor Decisions:
The Times, published daily in Gainesville, GA
District Ranger Decisions:
Armuchee Ranger District: *Walker County Messenger*, published bi-weekly (Wednesday & Friday) in LaFayette, GA
Toccoa Ranger District: *The News Observer* published weekly (Wednesday) in Blue Ridge, GA
Brasstown Ranger District: *North Georgia News*, published weekly (Wednesday) in Blairsville, GA
Tallulah Ranger District: *Clayton Tribune*, published twice weekly (Tuesday & Friday) in Cornelia, GA
Chattooga Ranger District: *Northeast Georgian*, published twice weekly (Tuesday and Friday) in Cornelia, GA
Chieftain & Toccoa Record, published twice weekly (Tuesday & Friday) in Toccoa, GA
White County News Telegraph, published weekly (Thursday) in Cleveland, GA
The Dahlonega Nuggett, published weekly (Thursday) in Dahlonega, GA
Cohutta Ranger District: *Chatsworth Times*, published weekly (Wednesday) in Chatsworth, GA
Oconee Ranger District: *Monticello News*, published weekly (Thursday) in Monticello, GA

Cherokee National Forest, Tennessee

Forest Supervisor Decisions:
Knoxville News Sentinel, published daily in Knoxville, TN (covering McMinn, Monroe, and Polk Counties)
Johnson City Press, published daily in Johnson City, TN (covering Carter, Cocke, Greene, Johnson, Sullivan, Unicoi and Washington Counties
District Ranger Decisions:
Ocoee Ranger District: *Polk County News*, published weekly (Wednesday) in Benton, TN
Hiwassee Ranger District: *Daily Post-Athenian*, published daily (Monday—Friday) in Athens, TN
Tellico Ranger District: *Monroe County Advocate*, published weekly (Thursday) in Sweetwater, TN
Nolichucky Ranger District: *Greeneville Sun*, published weekly (Monday—Saturday) in Greeneville, TN
Unaka Ranger District: *Johnson City Press*, published daily in Johnson City, TN
Watauga Ranger District: *Elizabethton Star*, published daily (Sunday—Friday) in Elizabethton, TN

Daniel Boone National Forest, Kentucky

Forest Supervisor Decisions:
Lexington Herald-Leader, published daily in Lexington, KY
District Ranger Decisions:
Morehead Ranger District: *Morehead News*, published bi-weekly (Tuesday and Friday) in Morehead, KY
Stanton Ranger District: *The Clay City Times*, published weekly (Thursday) in Stanton, KY
Berea Ranger District: *Jackson County Sun*, published weekly (Thursday) in McKee, KY
London Ranger District: *The Sentinel-Echo*, published tri-weekly (Monday, Wednesday, and Friday) in London, KY

Somerset Ranger District: *Commonwealth-Journal*, published daily (Sunday through Friday) in Somerset, KY
Stearns Ranger District: *McCreary County Record*, published weekly (Tuesday) in Whitley City, KY
Redbird Ranger District: *Manchester Enterprise*, published weekly (Thursday) in Manchester, KY

National Forests in Florida, Florida

Forest Supervisor Decisions:
The Tallahassee Democrat, published daily in Tallahassee, FL
District Ranger Decisions:
Apalachicola Ranger District: *The Liberty Journal*, published weekly (Wednesday) in Bristol, FL
Lake George Ranger District: *The Ocala Star Banner*, published daily in Ocala, FL
Osceola Ranger District: *The Lake City Reporter*, published daily (Monday-Saturday) in Lake City, FL
Seminole Ranger District: *The Daily Commercial*, published daily in Leesburg, FL
Wakulla Ranger District: *The Tallahassee Democrat*, published daily in Tallahassee, FL

Francis Marion & Sumter National Forest, South Carolina

Forest Supervisor Decisions:
The State, published daily in Columbia, SC
District Ranger Decisions:
Enoree Ranger District: *Newberry Observer*, published tri-weekly (Monday, Wednesday, and Friday) Newberry, SC
Andrew Pickens Ranger District: *Seneca Journal and Tribune*, published bi-weekly (Wednesday and Friday) in Senca, SC
Long Cane Ranger District: *The Augusta Chronicle*, published daily in Augusta, GA
Wambaw Ranger District: *News and Courier*, published daily in Charleston, SC
Witherbee Ranger District: *News and Courier*, published daily in Charleston, SC

George Washington and Jefferson National Forests, Virginia

Forest Supervisor Decisions:
Roanoke Times, published daily in Roanoke, VA
District Ranger Decisions:
Lee Ranger District: *Shenandoah Valley Herald*, published weekly (Wednesday) in Woodstock, VA
Warm Springs Ranger District: *The Recorder*, published weekly (Thursday) in Monterey, VA
Pedlar Ranger District: *Roanoke Times*, published daily in Roanoke, VA
James River Ranger District: *Virginian Review*, published daily (except Sunday) in Covington, VA
Deerfield Ranger District: *Daily News Leader*, published daily in Staunton, VA
Dry River Ranger District: *Daily News Record*, published daily (except Sunday) in Harrisonburg, VA
Blacksburg Ranger District: *Roanoke Times*, published daily in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the *Roanoke Times* and *Monroe Watchman.)*
Glenwood Ranger District: *Roanoke Times*, published daily in Roanoke, VA
New Castle Ranger District: *Roanoke Times*, published daily in Roanoke, VA
Monroe Watchman, published weekly (Thursday) in Union, WV (only for those decisions in West VA—notice will be published in the *Roanoke Times* and *Monroe Watchman.*)
Mount Rogers National Recreation Area: *Bristol Herald Courier*, published daily in Bristol, VA
Clinch Ranger District: *Kingsport-Times News*, published daily in Kingsport, TN
Wythe Ranger District: *Southwest Virginia Enterprise*, published bi-weekly (Wednesday and Saturday) in Wytheville, VA

Kisatchie National Forest, Louisiana

Forest Supervisor Decisions:
Alexandria Daily Town Talk, published daily in Alexandria, LA
District Ranger Decisions:
Caney Ranger District: *Minden Press Herald*, published daily in Minden, LA
Homer Guardian Journal, published weekly (Wednesday) in Homer, LA
Catahoula Ranger District: *Alexandria Daily Town Talk*, published daily in Alexandria, LA
Colfax Chronicle, published weekly (Wednesday) in Colfax, LA
Calcasieu Ranger District: *Alexandria Daily Town Talk*, published daily in Alexandria, LA
Kisatchie Ranger District: *Natchitoches Times*, published daily (Tuesday–Friday and on Sunday) in Natchitoches, LA
Winn Ranger District: *Winn Parish Enterprise*, published weekly (Wednesday) in Winnfield, LA

National Forests in Mississippi, Mississippi

Forest Supervisor Decisions:
Clarion-Ledger, published daily in Jackson, MS
District Ranger Decisions:
Bienville Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Chickasawhay Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Delta Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
De Soto Ranger District: *Clarion Ledger*, published daily in Jackson, MS
Holly Springs Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Homochitto Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Tomigbee Ranger District: *Clarion-Ledger*, published daily in Jackson, MS
Ashe-Erambert Project: *Clarion-Ledger*, published daily in Jackson, MS

National Forests in North Carolina, North Carolina

Forest Supervisor Decisions:
The Asheville Citizen-Times, published daily in Asheville, NC
District Ranger Decisions:
Appalachian Ranger District: *The Asheville Citizen-Times*, published daily in Asheville, NC
Cheoah Ranger District: *Graham Star*, published weekly (Thursday) in Robbinsville, NC
Croatan Ranger District: *The Sun Journal*, published weekly (Sunday through Friday) in New Bern, NC
Grandfather Ranger District: *McDowell News*, published daily in Marion, NC
Highlands Ranger District: *The Highlander*, published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Highlands, NC
The Crossroads Chronicle, published weekly (May–Oct Tues & Fri; Oct–April Tues only) in Cashiers, NC
The Sylva Herald, published weekly on Thursday in Sylva, NC
Pisgah Ranger District: *The Asheville Citizen-Times*, published daily in Asheville, NC
Tusquitee Ranger District: *Cherokee Scout*, published weekly (Wednesday) in Murphy, NC
Uwharrie Ranger District: *Montgomery Herald*, published weekly (Wednesday) in Troy, NC
Wayah Ranger District: *The Franklin*

Press, published bi-weekly (Wednesday and Friday) in Franklin, NC

Ouachita National Forest, Arkansas, Oklahoma

Forest Supervisor Decisions:
Arkansas Democrat-Gazette, published daily in Little Rock, AR
District Ranger Decisions:
Caddo Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Cold Springs Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Fourche Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Jessieville Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Mena Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Oden Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Poteau Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Winona Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Womble Ranger District: *Arkansas Democrat-Gazette*, published daily in Little Rock, AR
Choctaw Ranger District: *Tulsa World*, published daily in Tulsa, OK
Kiamichi Ranger District: *Tulsa World*, published daily in Tulsa, OK
Tiak Ranger District: *Tulsa World*, published daily in Tulsa, OK

Ozark-St. Francis National Forest: Arkansas

Forest Supervisor Decisions:
The Courier, published daily (Sunday through Friday) in Russellville, AR
District Ranger Decisions:
Sylamore Ranger District: *Stone County Leader*, published weekly (Tuesday) in Mountain View, AR
Buffalo Ranger District: *Harrison Daily Times*, published daily in Harrison, AR
Bayou Ranger District: *The Courier*, published daily (Sunday through Friday) in Russellville, AR
Pleasant Hill Ranger District: *Johnson County Graphic*, published weekly (Wednesday) in Clarksville, AR
Boston Mountain Ranger District: *Southwest Times Record*, published daily in Fort Smith, AR
Magazine Ranger District: *Southwest Times Record*, published daily in Fort Smith, AR
St. Francis Ranger District: *The Daily World*, published daily (Sunday through Friday) in Helena, AR

National Forests and Grasslands in Texas, Texas

Forest Supervisor Decisions:
The Lufkin Daily News, Published daily in Lufkin, TX
District Ranger Decisions:
Angelina National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Davy Crockett National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Sabine National Forest: *The Lufkin Daily News*, published daily in Lufkin, TX
Sam Houston National Forest: *The Courier*, published daily in Conroe, TX
Caddo & LBJ National Grasslands: *Denton Record-Chronicle*, published daily in Denton, TX

Dated: May 8, 1998.

Bruce L. Jewell,

Deputy Regional Forester for Natural Resources.

[FR Doc. 98–12951 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of Kimberling Creek Purchase Unit, Virginia

AGENCY: Forest Service, USDA.

ACTION: Notice of establishment of Kimberling Creek Purchase Unit.

SUMMARY: The Secretary of Agriculture created the 271-acre Kimberling Creek Purchase Unit in Bland County, Virginia. A copy of the establishment document, which includes the legal description of the lands within the purchase unit, appears at the end of this notice.

EFFECTIVE DATE: Establishment of this purchase unit was effective April 17, 1998.

ADDRESSES: A copy of the map depicting the lands within the purchase unit is on file and available for public inspection in the office of the Director, Lands Staff, 201 14th Street, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jack Craven, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090, telephone; (202) 205–1248.

Dated: May 6, 1998.

Gloria Manning,

Associate Deputy Chief, National Forest System.

Proposed Boundary Description for the Establishment of the Kimberling Creek Purchase Unit, Bland County, Virginia

Pursuant to the Secretary of Agriculture's authority under the Act of March 1, 1911, as amended, the Kimberling Creek Purchase Unit is being established and is described as follows:

Those lands in Bland County, Virginia, bounded on the west by State Route 606 being the existing Jefferson National Forest boundary, on the north by the existing Jefferson National Forest boundary, on the east by the Commonwealth of Virginia's Bland State Correctional Farm, and on the south by State Route 42 to the junction with State Route 606, the existing boundary.

The area described contains 271.25 acres, more or less, adjoining the Jefferson National Forest.

The lands are well suited for watershed protection and meet the requirements of the Act of March 1, 1911, as amended.

Dated: April 17, 1998.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 98–13039 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Boundary Extension, Ouachita National Forest, Arkansas

AGENCY: Forest Service, USDA.

ACTION: Notice of boundary extension.

SUMMARY: The Secretary of Agriculture has extended the Ouachita National Forest boundary to include 80 acres, more or less, which were recently acquired through exchange, in Le Flore County, Oklahoma. A copy of the Secretary's establishment document, which includes the legal description of the land within the extension, appears at the end of this notice.

EFFECTIVE DATE: The boundary extension was effective April 17, 1998.

ADDRESSES: A copy of the map showing the boundary extension is on file and available for public inspection in the Office of the Director of Lands, Forest Service, Auditor's Building, 201 14th Street, SW, Washington, D.C. 20090–6090.

FOR FURTHER INFORMATION CONTACT:

Jack Craven, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090 (202) 205–1248.

Dated: May 6, 1998.

Gloria Manning,

Associate Deputy Chief National Forest System.

Ouachita National Forest Boundary Extension

Pursuant to the Secretary of Agriculture's authority under Section 20(d), P.L. 100–499 (102 Stat. 2491), the Ouachita National boundary is hereby extended to include the following lands.

LeFlore County, Oklahoma, Indian Base Meridian

T3N, R26E,

Section 1: North Half of the Southeast Quarter.

Containing 80 acres, more or less.

As provided by P.L. 100–499, the lands described shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911 (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the National Forest System.

Dated: April 17, 1998.

Brian Eliot Burke,

Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 98–13038 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Box Canyon, Papoose, and Squaw Creek Timber Sales; Targhee National Forest, Bonneville County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Supervisor of the Targhee National Forest gives notice of the agency's intent to prepare an environmental impact statement for the Box Canyon, Papoose, and Squaw Creek Timber Sales. The proposed actions would harvest 1.8 million board feet of timber from 600 acres. Three miles of temporary roads would be built. Easement across private property would be required to access the Papoose and Squaw Creek Sales. The Box Canyon timber sale is located three miles south of Irwan, Idaho and the Papoose and Squaw Creek sales are located three miles southwest of Swan Valley, Idaho. Alternatives will include the proposed action, no action, and any alternatives that respond to significant issues generated during the scoping process. A more detailed description is available from the Palisades Ranger District; see **ADDRESSES** below.

DATES: Send written comments and suggestions on the issues concerning the proposed action by June 12, 1998.

ADDRESSES: Send written comments to Richard D. Dickemore, District Ranger, Palisades Ranger District, 3659 East Ririe Highway, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Dee Sessions, Interdisciplinary Team Leader, phone (208) 624–3151.

SUPPLEMENTARY INFORMATION: The Targhee National Forest Revised Land Management Plan was approved in 1997. One of the decisions in the revised Plan was to allow for the production and utilization of wood fiber from certain areas of the Forest. The geographic areas where the proposed actions would take place have primarily a prescription of timber management with emphasis on no clear cutting, urban interface fire management (5.1.3b) and elk summer range (5.4c). A prescription for other lands in the area is described below.

Elk and Deer Winter Range (2.7a)—Management emphasis is directed at providing quality elk and deer winter habitat. Habitats are managed for multiple land use benefits, to the extent these land uses are compatible with maintaining or improving elk and deer winter habitat.

Initial public involvement will include mailing maps and project descriptions to interested parties to solicit comments on the proposal. Preliminary issues include: Roadless area, threatened, endangered, and sensitive plant and animal species, recreational traffic, easement across private lands, big game habitat, water quality and aquatic influence zones.

Additional opportunity to comment on the projects will occur on the draft Environmental Impact Statement (draft EIS). The draft EIS is expected to be filed with the Environmental Protection Agency and available for public review in September 1998.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. At the same time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, tribes, and members of the public for their review and comment. It is very important that those interested in the proposed action participate at that time.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519,553 (1978). Also, environmental objections that could have been raised at the draft stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris, 490 F.Supp 1334,1338 (E.D. Wis. 1980)*. Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final EIS is scheduled to be completed in December 1998. In the final EIS, the Forest Service is required to respond to comments received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decisions on this proposal.

Responsible Official

Jerry B. Reese, Forest Supervisor, is the responsible official. As responsible official, he will document the selected alternative for the Box Canyon, Papoose, and Squaw Creek Timber Sales EIS and his rationale in a Record of Decision.

The decision for the Box Canyon, Papoose, and Squaw Creek Timber Sales project will be subject to Forest Service Appeal Regulations (36 FR part 215).

Dated: May 6, 1998.

Jerry B. Reese,

Forest Supervisor.

[FR Doc. 98–13036 Filed 5–14–98; 8:45 am]

BILLING CODE 4031–99–M

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on June 9, 1998 at the Madras Fire Department Convention Hall located on the corner of Adam and J Street off of Hwy 97 in Madras, Oregon. A combined field trip and business meeting will begin at 9:00 a.m. and finish at 4:30 pm. Agenda items include: (1) Fuels Management Issues (2) PAC Rechartering (3) Working Group Update (4) Public Forum from 9:00 to 9:20 am at the Madris Fire Hall. All Deschutes Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Mollie Chaudet, Province Liaison, USDA, Bend-Fort Rock Ranger District, 1230 N. E. 3rd, Bend, Oregon 97701, 541–383–4769.

Dated: May 7, 1998.

Sally Collins,

Deschutes National Forest Supervisor.

[FR Doc. 98–13030 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Colfax Watershed, Richland County, North Dakota; Notice of Finding of No Significant Impact

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of finding of significant no impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the National Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice than an environmental impact statement is not being prepared for the Colfax Watershed, Richland County, North Dakota.

FOR FURTHER INFORMATION CONTACT: Scott Hoag, Jr., State Conservationist, Natural Resources Conservation Service, 220 East Rosser Avenue, P.O. 1458, Bismarck, North Dakota 58502–1458, (701) 250–4421.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Scott Hoag, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are for flood control, agricultural water management, and watershed protection. The planned works of improvement include a 300 linear foot dike with overflow, 8,800 linear feet of floodway with pipe drop inlet and grade stabilization structure, 3,000 linear feet of floodway and dike, 12,000 linear feet of floodwater diversion, and 22,500 linear feet of floodway renovation. Associated Land Treatment Measures will be planned and installed on a minimum of 50 percent of the watershed above the structural measures. Seven thousand acres of cropland and 500 acres of grassland are expected to be benefited through the proposed project.

The Notice of a Finding Of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Scott Hoag, Jr., State Conservationist, 220 East Rosser Avenue, P.O. box 1458, Bismarck, North Dakota 58502–1458.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Scott Hoag, Jr.,

State Conservationist.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials)

Introduction

The Colfax Watershed is a federally assisted action authorized for planning under Public Law 83–566, the Watershed Protection and Flood Prevention Act. An environmental assessment was undertaken in conjunction with the development of the watershed plan. This assessment was conducted in consultation with local, State, and Federal agencies as well as with interested organizations and individuals. Data developed during the assessment are available for public review at the following location: U.S. Department of Agriculture, Natural Resources Conservation Service, 220 East Rosser Avenue, Bismarck, ND 58501.

Recommended Action

Proposed is the implementation of both structural and associated land treatment measures (ALTM) to reduce flood damages and protect the watershed. The structural components include a 300 linear foot dike with overflow, 8,800 linear feet of floodway with pipe drop inlet and grade stabilization structure, 3,000 linear feet of floodway and dike, 12,000 linear feet of floodwater diversion, and 22,500 linear feet of floodway renovation. The ALTM will be planned and installed on a minimum of 50 percent of the watershed above the structural measures. Seven thousands acres of cropland and 500 acres of grassland are expected to be benefited through the proposed project.

Effect of Recommended Action

The recommended action will protect the watershed hydrologically by improving the soil cover condition, water quality, and reduce overland flow quantities and velocities. Existing floodways will be restored, or built to the extent the peak flood flow rates for a 10 year, 24 hour flood event can be handled.

The proposed action will have little or not effect on wetlands. Only 2.2 acres are expected to be impacted to the point of requiring mitigation. The land treatment applied on 7,500 acres, will improve rainfall infiltration on both cropland and grassland. Sedimentation rates will be reduced from high value low residue crop fields. Integrated crop management will reduce the availability of nutrients and pesticides from entering the Wild Rice River.

The proposed project still encourage and promote farm units in the watershed to manage their natural resources in a safe and productive manner. This action will tend to sustain agricultural diversity and productivity for land users in the watershed. The reduced threat of flooding will provide social and economic benefits to watershed residents.

An initial site leads inventory of cultural resources as they relate to the planned components has been completed. This inventory concludes that no significant adverse impacts will occur to cultural resources in the

watershed should the plan be implemented. The NRCS has consulted with the State Historic Preservation Office on the effects of the planned measures. There is no effect foreseen on significant cultural resources. However, construction of floodways, dikes, grade stabilization structures and diversions have the potential for seriously disrupting individual sites. Therefore, caution shall be exercised in planning and installing any such measures to avoid serious disruption of cultural resource sites.

Signficant cultural resources identified during implementation will be avoided or otherwise preserved in place to the fullest extent practical. If significant cultural resources cannot be avoided or preserved, pertinent information will be recovered before construction. If there is a significant cultural resource discovery during construction, appropriate notice will be made by NRCS to the State Historic Preservation Officer and the National Park Service. Consultation and coordination have been made, and will continue to be used, to ensure the provisions of Section 106 of Public Law 89–665 have been met and to include provisions of Public Law 89–523, as amended by Public Law 93–291. NRCS will take action as prescribed in the NRCS GM 420, Part 401, to protect or recover any significant cultural resources discovered during construction.

No threatened or endangered species are known to exist in the watershed.

One of the primary objectives of the project is to reduce agricultural flooding. Approximately 7,000 acres of prime farmland will be protected from frequent flood events. An estimated 20 miles of farm to market roads, and 40 bridges and culverts will be protected by reduced quantities and velocities of flood waters. Flood damages to farmstead buildings for machinery and crop storage will be reduced.

Water quality will be improved in the Wild Rice River by reducing sediment delivery rates, implementing nutrient and pest management systems, and improved soil health and cover. Sediment control basins, along with buffer and filter strips adjacent to the proposed floodways and diversions will significantly reduce non-point source pollutants runoff. Associated land treatment measures (ALTM) will promote total resource management systems on 7,500 acres of land in the watershed. These systems, in addition to addressing management of the soil, water, air, plant, and animal resources will also address the social and economic resources of the watersheds land users.

Fish and wildlife habitats may be temporarily disturbed in some areas of the watershed during the construction phase. These resources will be restored or enhanced when the project is completed. Improvements in soil health, water quality, and plant diversity should result from the implementation of this project. The value of woodland habitat will not decline. An estimated 2.2 acres of seasonal partially drained wetlands will be lost due to project impacts. These wetland values will be properly mitigated for using the Hydro Geologic Model (HGM).

No wilderness areas are in the watershed.

Scenic values will be complimented with the diversity added by associated land treatment measures. During installation of structural features the scenic values will be temporarily decreased at specific construction locations in the watershed.

No significant adverse environmental impacts will result from installations except for minor inconveniences to local residents during construction.

Alternatives

A total of 7 alternatives were evaluated to address the problems and opportunities the local sponsoring organizations and watershed residents identified in the planning stages. The first 6 alternatives were formulated using varied combinations of floodwater diversions, dikes, and floodways with grade stabilizations structures. Each of these alternatives provided similar flood protection and land treatment benefits with varying economic, social and environmental impacts. The seventh alternative was the "no action" alternative.

It was determined by the sponsoring local organizations and watershed residents that alternative 6 is the recommended plan.

Consultation—Public Participation

Formal agency consultation began with the initiation of the notification of the State Single Point of Contact for Federal Assistance (Office of Intergovernmental Assistance) in March 1992. The Governor and the State Soil Conservation Committee were also notified of the application for Federal Assistance. Agencies were again notified when planning was authorized in October 1993.

Scoping meetings were held in September 1992 and June 1993, and interdisciplinary efforts were used in all cases. An Interagency Watershed Committee (IAWC) was utilized throughout the planning process. The process involved five Federal agencies (FSA, FS, F&WS, COE, and EPA), five State agencies (Department of Health, State Soil Conservation Committee, Game and Fish Department, State Water Commission, and State Historical Society), two county agencies (Richland County Soil Conservation District and Richland County Water Resource District), and the City of Colfax and the Red River & Western Railroad in part or all of the scoping and planning processes.

Specific consultation was conducted with the State Historic Preservation Officer, U.S. Army Corps of Engineers Regulatory Office, U.S. Fish and Wildlife Service, and North Dakota Department of Health. All of these agencies comments were used in the development of this plan.

The environmental assessment was transmitted to all participating and interested agencies, groups, and individuals for review and comment in March 1998. Three public meetings were held during the planning process to keep all interested parties informed of the study progress and to obtain public input into the plan and environmental evaluation. The last public meeting was held March 1998, in the City of Colfax, during the interagency review process

Agency consultation and public participation to date have shown no unresolved conflicts with the implementation of the selected plan.

Conculsions

The Environmental Assessment summarized above indicates that this Federal action will not cause significant local, regional, or national, impacts. Therefore, based on the above findings, I have determined that an environmental impact statement for the Colfax Watershed is not required.

Dated: May 7, 1998.

Scott Hoag Jr.,

State Conservationist.

[FR Doc. 98–13031 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service.

Notice of Proposed Change to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Kentucky

AGENCY: Natural Resources Conservation Service (NRCS) in Kentucky, U.S. Department of Agriculture.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NTCS in Kentucky for review and comment.

SUMMARY: It is the intention of the NRCS in Kentucky to issue revised conservation practice standards: Composting Facility (Code 317), Grassed Waterway (Code 412), Heavy Use Area Protection (Code 561), Obstruction Removal (Code 500), and Waste Management System (Code 312).

DATES: Comments will be received until June 15, 1998.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to David G. Sawyer, State Conservationist, Natural Resources Conservation Service (NRCS), 771 Corporate Drive, Suite 110, Lexington, KY 40503–5479. Copies of the practice standards are made available upon written request.

SUPPLEMENTAL INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State Technical Guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days the NRCS in Kentucky will receive comments relative to the proposed changes. Following that period a determination will be made by the NRCS in Kentucky regarding deposition of those comments and a final determination of change will be made.

Dated: April 13, 1998.

William N. Craddock,

Acting State Conservationist, Natural Resources Conservation Service, Lexington, KY.

[FR Doc. 98–10827 Filed 5–14–98; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposal(s) to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 15, 1998.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Mop Sponge Scrub Brush
M.R. 1012
NPA: Signature Works, Inc., Hazlehurst, Mississippi.

Services

Base Supply Center
Homestead Air Reserve Base, Florida,
NPA: Industries for the Blind, Inc., Milwaukee, Wisconsin.

Car Wash Service
U.S. Border Patrol, 1111 N. Imperial Avenue, El Centro, California
U.S. Border Patrol, 1150 Birch Street, Calexico, California
NPA: Association for Retarded Citizens—Imperial Valley El Centro, California

Furnishings Management Services
Dover Air Force Base, Delaware,
NPA: The Chimes, Inc., Baltimore, Maryland.

Janitorial/Custodial
PFC Harold P. Lynch USAR Center, Plattsburgh, New York, Canton USAR Center, Canton, New York
NPA: Citizen Advocates, Inc., Malone, New York.

Refuse Collection and Disposal
Picatinny Arsenal, New Jersey,
NPA: The First Occupational Center of New Jersey, Orange, New Jersey.

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–13035 Filed 5–14–98; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Hearing on Schools and Religions

AGENCY: Commission on Civil Rights.

ACTION: Notice of hearing.

SUMMARY: Notice is hereby given pursuant to the provisions of the Civil Rights Commission Amendments Act of 1994, Section 3, Pub. L. 103–419, 108 Stat. 4338, as amended, and 45 CFR Section 702.3, that a public hearing before the U.S. Commission on Civil Rights will commence on Friday, June 12, 1998, beginning at 9:00 a.m., in the United States Court of International Trade Center, located at 1 Federal Plaza, New York, NY 10007.

The purpose of the hearing is to collect information within the jurisdiction of the Commission, under 45 CFR Section 702.2, to examine the operation of the Equal Access Act and similar laws and the adherence by the public schools to these laws and the Constitution in regard to religious freedom. The Commission is authorized to hold hearings and to issue subpoenas for the production of documents and the attendance of witnesses pursuant to 45 CFR Section 701.2(c). The Commission is an independent bipartisan, factfinding agency authorized to study, collect, and disseminate information, and to appraise the laws and policies of the Federal Government, and to study and collect information with respect to

discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice.

Hearing impaired persons who will attend the hearing and require the services of a sign language interpreter, should contact Betty Edmiston, Administrative Services and Clearinghouse Division at (202) 376–8105 (TDD (202) 376–8116), at least five (5) working days before the scheduled date of the hearing.

FOR FURTHER INFORMATION CONTACT: Barbara Brooks, Press and Communications, (202) 367–8312.

Dated: May 11, 1998.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 98–12939 Filed 5–14–98; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Permits for Incidental Taking of Endangered or Threatened Species; Proposed Collection

ACTION: Proposed collection; comment request.

SUMMARY: 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 14, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Karen Salvini—F/PR3, Office of Protected Resources, Room 13623, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401 ext.130).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et. seq.) imposed prohibitions against the taking of endangered species. In 1982, Congress revised the ESA to allow permits authorizing the taking of endangered species incidental to otherwise lawful activities. The corresponding regulations established procedures for persons to apply for such a permit. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain three sets of information collections: (l) Applications for incidental take permits, (2) applications for certificates of inclusion, and (3) reporting requirements for permits issued. Certificates of inclusion are only required if a general permit is issued to a representative of a group of potential permit applicants, rather than requiring each entity to apply for and receive a permit. There are currently no general incidental take permits, and no certificates of inclusion, and none are expected in the next three years.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions. In order to issue a permit as required by ESA section 10(a)(2)(B), NMFS must determine that (i) the taking will be incidental; (ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (iii) the applicant will ensure that adequate funding for the plan will be provided; (iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (v) any additional measures required by NMFS as being necessary or appropriate for the purposes of the conservation plan will be met.

When a species is listed as threatened, section 4(d) of the ESA requires the Secretary to issue whatever regulations are deemed necessary or advisable to provide for conservation of the species. In many cases those regulations reflect blanket application of the section 9 take prohibition. However, in an interim rule for protection of listed coho salmon NMFS recognized certain exceptions to that prohibition, including one for restoration actions taken in accord with approved watershed action plans in Oregon or California. While watershed plans are prepared for other purposes in coordination with or fulfillment of various state programs, a watershed group wishing to take advantage of the exception for restoration activities (rather than obtaining a section 10 permit) would have to submit the plan for NMFS review.

II. Method of Collection

Permit applicants must submit an application to NMFS, including all appropriate information listed on the instructions. These instructions are a user-friendly version of the requirements at 50 CFR 222.22(b) for applications for incidental take permits.

Once issued, the permit requires that permit holders submit an annual report on activities. These reports must include information on: The activity causing incidental take, any endangered species taken (species, dates, location, and condition of animal), and the status of implementing a conservation plan to offset the impact to the species.

For watershed plans, a watershed council or other local group would submit its watershed plan to NMFS (and the state) for review against state guidance which meets the standards of 50 CFR 222.22(c). If the plan is found consistent with the state guidance, the group would not need to apply for a section 10 permit for any incidental take that might be associated with a restoration action called for in the plan. No annual or other reporting is associated with the restoration activity exception.

III. Data

OMB Number: 0648–0230.

Form Number: None.

Type of Review: Regular submission.

Affected Public: State, local, or tribal government; business or other for-profit; individuals; not-for-profit institutions.

Estimated Number of Respondents: 21 (11 permit-related, 10 for watershed plans).

Estimated Time Per Response: 80 hours for a permit application, 10 hours for a watershed plan, 8 hours for a permit report, and 30 minutes for a Certificate of Inclusion application.

Estimated Total Annual Burden Hours: 1,068.

Estimated Total Annual Cost to Public: $0 (no capital expenditures).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 12, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–12956 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Alaska Region Gear Identification; Proposed Collection

ACTION: Proposed collection; comment request.

SUMMARY: 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 14, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Patsy A. Bearden, F/AK01, NOAA/NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907–586–7228).

SUPPLEMENTARY INFORMATION:

I. Abstract

Participants in the groundfish fishery in the Alaska Region are required to identify all longline marker buoys carried onboard or used by any vessel. This requirement is currently cleared under OMB Control Number 0648–0305, which dealt with all NOAA gear-marking requirements, but those requirements will now be submitted on a regional basis.

II. Method of Collection

The vessel's name, Federal fisheries permit number, or the vessel's registration number shall be in characters at least 4 inches (10.16 cm) in height and 0.5 in. (1.27 cm) in width in a contrasting color visible above the water line and shall be maintained so the markings are clearly visible.

III. Data

OMB Number: New Number to be Assigned.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Individuals, Business and other for-profit (commercial fishermen).

Estimated Number of Respondents: 1,916.

Estimated Time Per Response: 0.25 hour.

Estimated Total Annual Burden Hours: 3,450 hours.

Estimated Total Annual Cost to Public: The cost to fishermen is minimal. Materials needed are paint and paint brush, or permanent ink applicator, and possibly a stencil. Labor costs probably range between $10 and $15 per hour with the average estimated time varying from 1 to 5 minutes to paint/mark each buoy. Total estimated cost per vessel varies greatly with the type and amount of gear being used. Given the adverse weather conditions and salt water, we expect each number will need to be repainted, repaired, or replaced annually.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 12, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–12957 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Northwest Region Gear Identification Requirements; Proposed Collection

ACTION: Proposed Collection; Comment Request.

SUMMARY: 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 14, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to William L. Robinson, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115, 206–526–6140.

SUPPLEMENTARY INFORMATION:

I. Abstract

The success of fisheries management programs depends significantly on regulatory compliance. Requirements that fishing gear be marked are essential to facilitate endorsement. The ability to link fishing gear to the vessel owner or operator is crucial to endorsement of regulations issued under the authority of the Magnuson Fishery Conservation and Management Act to govern domestic and foreign fishing, and the Atlantic Tunas Convention act. The marking of fishing gear is also valuable in actions concerning damage, loss, and civil proceedings.

The regulations specify fishing gear must be marked with the vessel's official number, federal permit or tag number, or some other specified form of identification. The regulations further specify how the gear is to be marked,

e.g., location and color. Law endorsement personnel rely on this information to assure compliance with fisheries management regulations. Gear that is not properly identified is confiscated. The identifying number on fishing gear is used by NMFS, the U.S. Coast Guard, and other marine agencies in issuing violations, prosecutions, and other enforcement actions. Gear marking helps ensure that a vessel harvests fish only from its own traps/pots/other gear and that traps/pots/other gear are not illegally placed. Gear violations are more readily prosecuted, and this allows for more cost-effective enforcement. Cooperating fishermen also use the number to report placement or occurrence of gear in unauthorized areas. Regulation-compliant fishermen ultimately benefit as unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

These requirements are currently cleared under OMB Control Number 0648–0305, which dealt with all NOAA gear-marking requirements, but those requirements will now be submitted on a regional basis.

II. Method of Collection

The physical marking of fishing buoys is done by the affected public (fishers in the Pacific Coast Groundfish Fishery) according to regulation.

III. Data

OMB Number: New Number to be Assigned.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Business or other for-profit (fishers in the Pacific Coast Groundfish Fishery).

Estimated Number of Respondents: 1,835.

Estimated Time Per Response: 15 minutes per marking (with an average of 11.20 buoy markings per vessel).

Estimated Total Annual Burden Hours: 5,140.

Estimated Total Annual Cost to Public: $5,140 for materials to make markings (e.g. paint and paintbrush or permanent ink applicator, possibly a stencil; or a commercially available plastic tag that is fastened to the trap/pot).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 12, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–12958 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Northwest Region Vessel Identification Requirements; Proposed Collection

ACTION: Proposed collection; comment request.

SUMMARY: 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 take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 14, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to William L. Robinson, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115, 206–526–6140.

SUPPLEMENTARY INFORMATION:

I. Abstract

The success of fisheries management programs depends significantly on regulatory compliance. The vessel identification requirement is essential to facilitate enforcement. The ability to link fishing or other activity to the vessel owner or operator is crucial to enforcement of regulations issued under the authority of the Magnuson Fishery Conservation and Management Act to govern domestic and foreign fishing, the Atlantic Tunas Convention Act, and the South Pacific Tuna Act of 1988. A vessel's official number (or international radio call sign—IRCS—if a foreign vessel or if fishing in the South Pacific Tuna Fisheries), under most regulations, is required to be displayed on the port and starboard sides of the deckhouse or hull, and on a weather deck. It identifies each vessel and should be visible at distances at sea and in the air.

Vessels that qualify for particular fisheries are readily identified, gear violations are more readily prosecuted, and this allows for more cost-effective enforcement. Cooperating fishermen also use the number to report suspicious activities that they observe. Regulation-compliant fishermen ultimately benefit as unauthorized and illegal fishing is deterred and more burdensome regulations are avoided.

These requirements are currently cleared under OMB Control Number 0648–0306, which dealt with all NOAA vessel-marking requirements, but those requirements will now be submitted on a regional basis.

II. Method of Collection

Fishing vessel owners physically mark vessel with identification numbers in three locations per vessel.

III. Data

OMB Number: New Number to be Assigned.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Business or other for-profit (fishers in the Open Access and Limited Entry Pacific Coast Groundfish Fishery).

Estimated Number of Respondents: 2,026.

Estimated Time Per Response: 45 minutes (15 minutes per marking).

Estimated Total Annual Burden Hours: 1,519 hours.

Estimated Total Annual Cost to Public: $60,780 ($30 per vessel).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 12, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–12959 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1999 American Community Survey.

Form Number(s): ACS–1, –1(GQ), –3(GQ), –10, –12(L), –13(L),–14(L), –16(L), –20, –30.

Agency Approval Number: 0607–0810.

Type of Request: Revision of a currently approved collection.

Burden: 227,500 hours.

Number of Respondents: 425,000.

Avg Hours Per Response: 32 minutes.

Needs and Uses: The Census Bureau is developing a methodology to produce "long-form" data on a continual basis that we traditionally have collected once a decade as part of the decennial census. This methodology is called continuous measurement (CM). Since the Census Bureau collects the long-form data only once every ten years, the data become out of date over the course of the decade. Also, there is an increasing need for data describing lower geographic detail. CM will provide current data throughout the decade for small areas and small subpopulations.

The American Community Survey (ACS) is the data collection vehicle for CM. The Census Bureau began a test and demonstration of the capabilities of the survey collection and processing system in 1995. Four sites around the country were originally selected. This number has increased slightly through 1998 (presently nine sites). The 1999 ACS will be conducted in 45 sites, including the current nine sites. Over the next three years (1999—2001), we will be greatly expanding the number of sites covered and comparing ACS results to those of the long form which will be administered in the Census 2000. This 3-year period will help us to understand the differences between the ACS and the Census 2000 long form. Current plans are to put the ACS fully in place in 2003.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Section 182.

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nancy Kirkendall, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: May 12, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–12955 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Document, Environmental Assessment, and Finding of No Significant Impact

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and The U.S. Environmental Protection Agency.

ACTION: Notice of availability of proposed findings document, environmental assessment, and finding of no significant impact on approval of the coastal nonpoint pollution control program for Hawaii.

SUMMARY: Notice is hereby given of the availability of the Proposed Findings Document, Environmental Assessment (EA), and Finding of No Significant Impact for the Hawaii Coastal Nonprofit Pollution Control Program (CNPCP). Coastal states and territories were required to submit their coastal nonprofit programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. The Findings document was prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve the State coastal nonpoint pollution control program

Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires States and territories with coastal zone management programs, approved under section 306 of the Coastal Zone Management Act, to develop and implement coastal nonpoint pollution control programs. These programs shall be developed in close coordination with State and local water quality plans and programs required under the Clean Water Act (CWA) and will provide an update to the State's nonpoint source program. The EA was prepared by NOAA, pursuant to the National Environmental Policy Act (NEPA) 42 U.S.C. sections 4321 *et seq.*, to assess the environmental impacts associated with the approval of the coastal nonpoint pollution control program submitted to NOAA and EPA by Hawaii.

NOAA and EPA have proposed to approve, with conditions, the coastal nonpoint pollution control program submitted by Hawaii on June 28, 1996. The requirements of 40 CFR Parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of the Environmental Assessment. Specifically, 40 CFR section 1506.6 requires agencies to provide public notice of the availability of environmental documents. This notice is part of NOAA's action to comply with this requirement.

Introduction

Nonprofit source pollution from agriculture, urban development, forestry, wetlands, marinas and recreational boating, and hydromodification is a major cause of water quality impairment nationally and in Hawaii. The State of Hawaii, along with various Federal, State and local agencies, private non-profit groups, private citizens, and landowners are involved in many efforts to reduce and prevent nonpoint source pollution.

Hawaii's CNPCP submittal provides a good description of State activities to address the challenging and critical problems associated with nonpoint source pollution. To improve the effectiveness of the Program, the Hawaii Department of Health (HIDOH) and the Department of Business, Economic Development and Tourism (DEBT) are currently developing an Implementation Plan with extensive input from local, State and Federal agencies, non-government organizations and private individuals. This Plan will identify priority activities, including milestones and lead responsibilities, that the State believes are key to completing development of the State's CNPCP and to improving the effectiveness of the State's program to address nonpoint source pollution generally. In order to develop a full approvable program, the Sate should also include in the implementation Plan: the actions necessary to meet the conditions identified in the Findings; explain how back-up authorities will be used to ensure implementation, should voluntary efforts fail; and, provide for evaluation, feedback, public review and program adjustments, as necessary.

Background: Description of Hawaii's Nonpoint Source Program

The development and implementation of the Hawaii CNPCP is the joint responsibility of HIDOH and DBEDT. The HIDOH has primary responsibility for the protection of water quality from nonpoint sources of pollution. In 1990, HIDOH completed Hawaii's Assessment of Nonpoint Source Pollution Water Quality Problems and Hawaii's Nonpoint Source (NPS) Pollution Management Plan. The Clean Water Act (CWA) Section 319 required states to develop an assessment report detailing the extent of nonpoint source pollution and a management program specifying nonpoint source controls, in order to be eligible for Federal funding. The State receives Federal funds approximately $768,000/year) under the Clean Water Act, Section 319, to implement the State NPS Plan.

The Office of Planning in DBEDT (formerly Office of State Planning) has primary responsibility for Hawaii's Coastal Zone Management (CZM) Program, approved in 1978. This program is implemented through a network of State and county agencies with responsibility for land and water use controls, resource management and environmental protection. The State receives Federal funds (approximately $785,000/year) under the Coastal Zone Management Act, Section 306, to implement the CZM Program.

Hawaii's Response to Section 6217 of CZARA

In response to the CZARA requirements, DBEDT and HIDOH undertook a joint effort (August 1993 to June 1996) to develop a CNPCP that would improve the statewide nonpoint source program and comply with CZARA. This effort was designed to strengthen the links between Federal and State coastal zone management and water quality programs. As lead agencies, DBEDT and HIDOH prepared the State submittal with extensive input from both working and focus groups that included representatives from Federal, State and local agencies, affected industries, businesses, environmental organizations and landowners. The State received funds under CZARA Section 6217 to help develop their coastal nonpoint source pollution program from Fiscal Year (FY)92 through FY95. Funding under CZARA, Section 6217 was not appropriated by Congress in FY96 and FY97. In FY98, Hawaii will receive $52,000 under Section 6217 to assist in the development of its coastal nonpoint pollution control program.

The State CNPCP emphasizes a mix of regulatory and non-regulatory approaches that rely and build on existing authorities at the State and local level. The CNPCP submittal summarizes existing programs, provides an understanding of State and local agencies roles and responsibilities, and helps to identify gaps in the program. The CNPCP includes broad and specific recommendations to strengthen supporting programs, improve coordination, implement management measures and facilitate watershed and/or community-based approaches. The State is developing an Implementation Plan that will describe how these recommendations will be implemented and what other steps the State will take to meet the conditions identified in the proposed Findings.

EPA and NOAA's Review of Hawaii's 6217 Submittal

Hawaii's CNPCP provides a foundation for polluted runoff control. It describes existing Federal, State, and local programs and makes recommendations to improve nonpoint pollution control in the State. However, the proposed Findings conclude that additional work needs to be done to fully address the requirements of CZARA. In summary:

- the State needs to fully describe how the management measures will be incorporated into the State's CNPCP and how they will be implemented;
- the State needs to describe how existing "back-up" authorities will be used to ensure implementation of the management measures, if voluntary efforts fail;
- the State needs to adequately address common program elements related to technical assistance, critical coastal areas, additional management measures and monitoring.

Accordingly, EPA and NOAA's approval of Hawaii's CNPCP includes conditions for addressing the above areas. These conditions must be met within 5 years, as specified in the March 16, 1995 Flexibility Guidance, for the State to receive full program approval. The State, NOAA and EPA will work together to annually review progress toward meeting these conditions, with the goal of developing a fully approvable Hawaii CNPCP that results in environmental and public health protection and meets the requirements of CZARA.

Copies of the Proposed Findings Document, Environmental Assessment, and Finding of No Significant Impact may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. (301) 713–3152 x 201 or Vicki Tsuhako, U.S. EPA, Pacific Island Contact Office, 300 Ala Moana Blvd., #5152, Honolulu, HI 96850, tel. (808) 541–2710.

DATES: Individuals or organizations wishing to submit comments on the proposed Findings or Environmental Assessment should do so by June 15, 1998.

ADDRESSES: Comments should be made to: Joseph A. Uravitch, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland, 20910, tel. (301) 713–3155 x 195. (Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: May 12, 1998.

John Oliver,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans and Watersheds, Environmental Protection Agency.

[FR Doc. 98–13021 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Pollution Control Program: Proposed Findings Document, Environmental Assessment, and Findings of No Significant Impact

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce, and The U.S. Environmental Protection Agency.

ACTION: Notice of availability of proposed findings document, environmental assessment, and findings of no significant impact on approval of coastal nonpoint pollution control program for Washington.

SUMMARY: Notice is hereby given of the availability of the Proposed Findings Document, Environmental Assessment (EA), and Finding of No Significant Impact for Washington. Coastal states and territories were required to submit their coastal nonpoint programs to the National Oceanic and Atmospheric Administration (NOAA) and the U.S. Environmental Protection Agency (EPA) for approval in July 1995. The Findings documents were prepared by NOAA and EPA to provide the rationale for the agencies' decision to approve each state and territory coastal nonpoint pollution control program. Section 6217 of the Coastal Zone Act Reauthorization Amendments (CZARA), 16 U.S.C. section 1455b, requires states and territories with coastal zone management programs that have received approval under section 306 of the Coastal Zone Management Act to develop and implement coastal nonpoint pollution control programs. The EA's were prepared by NOAA, pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. sections 4321 *et seq.*, to assess the environmental impacts associated with the approval of the coastal nonpoint pollution control program submitted to NOAA and EPA by Washington.

NOAA and EPA have proposed to approve, with conditions, the coastal nonpoint pollution control program submitted by Washington. The requirements of 40 CFR Parts 1500–1508 (Council on Environmental Quality (CEQ) regulations to implement the National Environmental Policy Act) apply to the preparation of this Environmental Assessment. Specifically, 40 CFR section 1506.6 requires agencies to provide public notice of the availability of environmental documents. This notice is part of NOAA's action to comply with this requirement.

Copies of the Proposed Findings Document, Environmental Assessment, and Findings of No Significant Impact may be obtained upon request from: Joseph P. Flanagan, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. (301) 713–3121, x201.

DATES: Individuals or organizations wishing to submit comments on the proposed Findings or Environmental Assessment should do so by June 15, 1998.

ADDRESSES: Comments should be made to: Joseph A. Uravitch, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, tel. (301) 713–3155, x195.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: May 12, 1998.

John Oliver,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Robert H. Wayland, III,

Director, Office of Wetlands, Oceans and Watersheds, Environmental Protection Agency.

[FR Doc. 98–13022 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050798B]

Endangered Species; Permits

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

ACTION: Receipt of applications for a scientific research permit (1148) and for modifications to scientific research permits (1114, 1115); Issuance of scientific research permits (1059, 1072, 1088, 1102, 1119, 1130, 1131, 1133, 1136, 1137) and modifications to scientific research permits (1042, 1103)

SUMMARY: Notice is hereby given of the following actions regarding permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement: NMFS has received a permit application from the Resource Enhancement and Utilization Technologies Division of the Northwest Fisheries Science Center, NMFS at Seattle, WA (NWFSC) (1148); NMFS has received applications for modifications to existing permits from the Washington Department of Fish and Wildlife at Olympia, WA (WDFW) (1114) and Public Utility District No. 1 of Chelan County at Wenatchee, WA (PUD CC) (1115); NMFS has issued permits subject to certain conditions set forth therein, to: Carl Page (1059), U.S. Bureau of Reclamation at Shasta Lake, CA (BOR) (1072), Bureau of Land Management (BLM)(1088), Washington Department of Fish and Wildlife at Vancouver, WA (WDFW) (1102), U.S. Fish and Wildlife Service at Leavenworth, WA (FWS) (1119), the U.S. Geological Survey at Cook, WA (USGS) (1130), the Port of Portland at Portland, OR (POP) (1131), Andre M. Landry, of Texas A&M University (1133), the Oregon Cooperative Fishery and Wildlife Research Unit at Corvallis, OR (OCFWRU) (1136), and Northwest Fisheries Science Center, NMFS at Seattle, WA (NWFSC) (1137); and NMFS has issued modifications to scientific research permits to William M. Kier Associates (WKA) (1042) and California Department of Forestry and Fire Protection (CDF) (1103).

DATES: Written comments or requests for a public hearing on any of the applications must be received on or before June 15, 1998.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

For permits 1102, 1114, 1115, 1119, 1130, 1131, 1136, 1137, and 1148: Protected Resources Division (PRD), F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

For permits 1042, 1059, 1072, 1088, and 1103: Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

For permit 1133: Director, Southeast Region, NMFS, NOAA, 9721 Executive Center Drive, St. Petersburg, FL 33702–2432 (813–893–3141).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT: For permits 1102, 1130, 1131, 1136, 1137, and 1148: Robert Koch, Portland, OR (503–230–5424).

For permits 1114, 1115, and 1119: Tom Lichatowich, Portland, OR (503–230–5438).

For permits 1042, 1059, 1072, 1088, and 1103: Thomas Hablett, Protected Resources Division, (707–575–6066).

For permit 1133: Michelle Rogers, Endangered Species Division, Silver Spring, MD (301–713–1401)

SUPPLEMENTARY INFORMATION:

Authority

Permits are requested under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

Those individuals requesting a hearing on these requests for permits should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the below application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Issuance of these permits, modifications, and amendments, as required by the ESA, was based on a finding that such permits, modifications, and amendments: (1) Were applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. These permits, modifications, and amendments were also issued in accordance with and are subject to parts 217-222 of Title 50 CFR, the NMFS regulations governing listed species permits.

Species Covered in this Notice

The following species are covered in this notice: Chinook salmon (*Oncorhynchus tshawytscha*), Coho salmon (*Oncorhynchus kisutch*), Green sea turtle (*Chelonia mydas*), Hawksbill sea turtle (*Eretmochelys imbricata*), Kemp's ridley sea turtle (*Lepidochelys kempii*), Loggerhead sea turtle (*Caretta caretta*), Sockeye salmon (*Oncorhynchus nerka*), and Steelhead trout (*Oncorhynchus mykiss*).

New Application Received

NWFSC requests a 5-year permit (1148) for authorization to take adult and juvenile, endangered, artificially propagated, Snake River sockeye salmon to continue its captive broodstock responsibilities currently authorized under Permit 1005 which expires on May 31, 1998. The captive broodstock program is a cooperative effort among the Idaho Department of Fish and Game (IDFG), NMFS, the Shoshone-Bannock Tribes, the University of Idaho, the Idaho Department of Environmental Quality, the Oregon Department of Fish and Wildlife (ODFW), and the Bonneville Power Administration (BPA). Funding is provided by BPA. The captive broodstock program is helping to preserve and perpetuate the species and will provide Snake River sockeye salmon for future recovery actions. NWFSC proposes to rear, maintain, breed, tag, and mark the fish, which will then be used to complement recovery efforts at Redfish, Pettit, and Alturas Lakes in Idaho.

Modification Requests Received

WDFW requests modification 1 to scientific research permit 1114. Permit 1114 authorizes a take of juvenile, endangered, naturally produced and artificially propagated, upper Columbia River (UCR) steelhead associated with a smolt monitoring program at Rock Island Dam on the Columbia River. For modification 1, WDFW requests authorization to take adult, endangered, UCR steelhead. WDFW proposes to collect adult fish in a permanent inclined screen trap, handle them to determine hatchery or wild origin, and release them. The information will be used to design operational measures to enhance adult passage survival at the dam. WDFW requests that Modification 1 be valid for the duration of the permit which expires on December 31, 2002.

PUD CC requests modification 1 to scientific research permit 1115. Permit 1115 authorizes a take of juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with two research studies. The purpose of the research is to evaluate the juvenile fish bypass system installed at Rocky Reach Dam, and to monitor juvenile fish gas bubble trauma at Rocky Reach and Rock Island Dams on the Columbia River. For modification 1, PUD CC requests authorization to take adult, endangered, UCR steelhead. PUD CC proposes to collect ESA-listed adult fish at a permanent bypass pipe at Rocky Reach Dam, handle them to determine hatchery or wild origin, and release them. The information will be used to design operational measures to enhance adult passage survival at the dam. PUD CC requests that Modification 1 be valid for the duration of the permit which expires on December 31, 2002.

Permits and Modifications Issued

Notice was published on November 17, 1997 (62 FR 61295), that an application had been filed by WKA for a modification to a scientific research permit. Modification 1 to permit 1042 was issued to WKA on May 5, 1998. Permit 1042 authorizes takes of adult and juvenile, threatened, central California coast (CCC) coho salmon associated with fish population and habitat studies throughout the Evolutionarily Significant Unit (ESU). ESA-listed fish may be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities are also authorized. The modification authorizes takes of juvenile, threatened, southern Oregon/northern California (SONCC) coho salmon associated with fish population and habitat studies throughout the California portion of the ESU. ESA-listed juvenile fish are proposed to be observed and counted. Modification 1 is valid for the duration of the permit which expires on June 30, 1999.

Notice was published on January 15, 1998 (63 FR 2364), that an application had been filed by Carl Page for a scientific research permit. Permit 1059 was issued on April 24, 1998. Permit 1059 authorizes Carl Page takes of adult and juvenile, threatened, SONCC coho salmon; adult and juvenile, threatened, CCC coho salmon; and adult and juvenile, endangered, southern California coast steelhead associated with fish population and habitat studies in coastal drainages throughout California. The studies consist of habitat and biological inventories, and project monitoring and evaluation studies for which ESA-listed fish will be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. Indirect mortalities associated with the research are also authorized. Permit 1059 expires on June 30, 2003.

Notice was published on January 15, 1998 (63 FR 2364), that an application had been filed by BOR for a scientific research permit. Permit 1072 was issued to BOR on May 4, 1998. Permit 1072 authorizes takes of adult and juvenile, threatened, SONCC coho salmon in California within the ESU. The studies consist of coho salmon distribution, abundance and spawner surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect

mortalities associated with the research are also authorized. Permit 1072 expires on June 30, 2003.

Notice was published on January 15, 1998 (63 FR 2364), that an application had been filed by BLM for a scientific research permit. Permit 1088 was issued to BLM on April 24, 1998. Permit 1088 authorizes BLM takes of adult and juvenile, threatened, SONCC coho salmon in California, associated with fish population and habitat studies in the Eel and Mattole River Basins, and Humboldt County coastal stream drainages within the ESU. The studies consist of coho salmon distribution, abundance and spawner surveys for which ESA-listed fish are proposed to be taken. ESA-listed fish will be captured, anesthetized, handled (identified and measured), allowed to recover from the anesthetic, and released. ESA-listed salmon indirect mortalities associated with the research are also authorized. Permit 1088 expires on June 30, 2003.

Notice was published on October 31, 1997 (62 FR 58942), and February 25, 1998 (63 FR 9505), that an application and an amendment to the application had been filed by WDFW for a scientific research permit. Permit 1102 was issued to WDFW on April 24, 1998. Permit 1102 authorizes WDFW an annual take of adult, endangered, UCR steelhead; adult, threatened, Snake River spring/summer chinook salmon; and adult, threatened, Snake River fall chinook salmon associated with two scientific research studies. The purpose of the research is to determine the number and timing of wild and hatchery steelhead adults that pass Bonneville Dam on the Columbia River, and to determine the genetic stock identification of anadromous adult fish harvested in Columbia River fisheries. Data will be used to determine the fishery impacts to ESA-listed stocks and if possible, to shape fisheries to reduce impacts to ESA-listed or depressed stocks while focusing harvest on healthy stocks. Permit 1102 expires on January 31, 2003.

Notice was published on November 5, 1997 (62 FR 59848), that an application had been filed by CDF for a modification to a scientific research permit. Modification 1 to permit 1103 was issued to CDF on April 24, 1998. Permit 1103 authorizes takes of juvenile, threatened, CCC coho salmon associated with fish population and habitat studies throughout the ESU. ESA-listed fish may be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities are also authorized. The modification authorizes takes of juvenile, threatened, SONCC coho salmon associated with fish population and habitat studies throughout the California portion of the ESU. ESA-listed juvenile fish are proposed to be observed and counted. Modification 1 is valid for the duration of the permit which expires on June 30, 2003.

Notice was published on March 2, 1998, (63 FR 10198), that an application had been filed by FWS for a 5-year scientific research permit. Permit 1119 was issued on May 4, 1998. Permit 1119 authorizes direct takes of juvenile fish released from Winthrop Hatchery. The FWS is authorized takes of adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with two scientific research studies. The purpose of the research is to gather data on emerging juvenile salmon and steelhead, and to conduct snorkel surveys in various watersheds as part of inventory and artificial structure monitoring projects. The data obtained from both studies will be used to determine the survival and contribution of ESA-listed steelhead and other unlisted salmonids released from FWS mitigation hatchery programs in central Washington and to provide technical assistance to agencies, tribes, and interest groups using and managing aquatic resources in the mid to upper-Columbia River Basin. Some ESA-listed juvenile fish will be captured with screw traps, handled, and released, and some adult and juvenile fish will be observed during snorkel surveys. Permit 1119 expires on December 31, 2002.

Notice was published on February 25, 1998 (63 FR 9505), that an application had been filed by USGS for a scientific research permit. Permit 1130 was issued to USGS on April 24, 1998. Permit 1130 authorizes USGS takes of juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; juvenile, threatened, Snake River fall chinook salmon; and juvenile, endangered, artificially propagated, upper Columbia River steelhead associated with research designed to determine the movement, distribution, and passage behavior of radio-tagged juvenile salmonids at Bonneville, The Dalles, and John Day Dams on the Columbia River. The results of the research will be used by the U.S. Army Corps of Engineers to assess fish passage efficiency at John Day and The Dalles Dams and to increase bypass efficiency for juvenile salmonids at the dams by effectively designing and positioning prototype surface bypass/collection structures. Permit 1130 expires on December 31, 2002.

Notice was published on February 25, 1998 (63 FR 9505), that an application had been filed by POP for a scientific research permit. Permit 1131 was issued to POP on April 24, 1998. Permit 1131 authorizes POP takes of juvenile, endangered, Snake River sockeye salmon; adult and juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; adult and juvenile, threatened, Snake River fall chinook salmon; and adult and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with research designed to determine the presence and distribution of fish in shallow water habitats between the lower end of Hayden Island and the Sandy River delta on the Columbia River. Information will be used to: (1) develop a comprehensive management plan for the lower Columbia River in cooperation with the states of OR and WA, (2) prepare environmental impact assessments associated with shoreline development projects, and (3) design mitigation plans to compensate for the loss of shallow water habitat due to future shoreline development projects. Permit 1131 expires on January 31, 2000.

Notice was published on February 25, 1998 (63 FR 9505), that an application had been filed by Andre M. Landry, Texas A&M University, for a scientific research permit. Permit 1133 was issued on May 1, 1998. Permit 1133 authorizes the take of up to 200 Kemp's ridley, 20 hawksbill, 150 green, and 100 loggerhead turtles annually from locations within the Gulf of Mexico, primarily through the use of entanglement nets for the purpose of conducting studies on population status and recovery potential, habitat preference, movement and migration, foraging patterns, and impact of man's activities such as commercial and recreational fishing, dredging and habitat alteration/pollution. All captured turtles may be weighed, photographed, measured, blood sampled, and PIT and flipper tagged. Certain turtles may be radio, sonic and/or satellite tagged, and fecal and tissue sampled. Additionally, stomach lavage techniques may be deployed where necessary. Permit 1133 expires on January 31, 2003.

Notice was published on March 2, 1998 (63 FR 10198), that an application had been filed by OCFWRU for a scientific research permit. Permit 1136 was issued to OCFWRU on April 24, 1998. Permit 1136 authorizes OCFWRU annual takes of juvenile, endangered,

Snake River sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; juvenile, threatened, Snake River fall chinook salmon; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with research designed to compare biological and physiological indices of wild and hatchery juvenile fish exposed to stress from bypass, collection, and transportation activities at the dams on the Snake and Columbia Rivers. The purpose of the research is to determine effects of manmade structures and management activities on outmigrating salmonids and to provide information that can be used to improve their survival. Permit 1136 expires on December 31, 2000.

Notice was published on March 6, 1998 (63 FR 11220), that an application had been filed by NWFSC for a scientific research permit. Permit 1137 was issued to NWFSC on April 24, 1998. Permit 1137 authorizes NWFSC takes of juvenile, endangered, Snake River sockeye salmon; juvenile, threatened, naturally produced and artificially propagated, Snake River spring/summer chinook salmon; juvenile, threatened, Snake River fall chinook salmon; and juvenile, endangered, naturally produced and artificially propagated, UCR steelhead associated with four scientific research studies at hydropower dams on the Snake and Columbia Rivers in the Pacific Northwest. The purpose of the four studies are: To evaluate a prototype fish separator at Ice Harbor Dam; to establish biological design criteria for fish passage facilities at McNary Dam; to evaluate vertical barrier screens, outlet flow control devices, and methods of debris control at McNary and Little Goose Dams; and to evaluate extended-length bar screens at the first powerhouse of Bonneville Dam. Permit 1137 expires on December 31, 1998.

Dated: May 8, 1998.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–12844 Filed 5–14–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

New York Mercantile Exchange Proposed Specialist Market Maker Program

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed new rule and rule amendments of the New York Mercantile Exchange to establish a Specialist Market Maker program.

SUMMARY: The New York Mercantile Exchange ("NYMEX" or "Exchange") has submitted a proposed new rule and rule amendments that would establish a Specialist Market Maker ("SMM") program for certain new or low-volume futures contracts. The Exchange would appoint one SMM for each contract market that it determined would benefit from the SMM program. The SMM would be required to maintain a continuous physical presence on the floor of the Exchange throughout the regular trading session of the contract and to maintain a two-sided market in the contract for which he or she had been appointed. The SMM also would be required to maintain a limit order book of member and non-member (*i.e.*, customer) limit orders. In return for these services, the SMM would be paid a contract development fee and receive various priorities with respect to certain transactions executed in the trading ring for the appointed contract.

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Division of Trading and Markets ("Division") has determined to publish the NYMEX proposal for public comment. The Division believes that publication of the proposal is in the public interest and will assist the Commission in considering the views of interested persons.

DATE: Comments must be received on or before June 15, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Smith, Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5495; or electronic mail: tsmith@cftc.gov.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed SMM Program

A. Introduction

By letter dated April 16, 1998, NYMEX submitted proposed new Rule 6.45 ("Specialist Market Maker Program") and proposed amendments to Rule 6.43A ("Broker Registration Requirements") pursuant to Section 5a(a)(12)(A) of the Commodity Exchange Act ("Act") and Commission Regulation 1.41(c). The proposed new rule and rule amendments would establish an SMM program for certain new or low-volume futures contracts. The SMM program is intended to provide liquidity for new or illiquid markets and would be terminated once the contract obtained a predetermined trading volume. The SMM program is patterned after a market maker program at the Chicago Mercantile Exchange that was previously approved by the Commission on April 20, 1995.

NYMEX intends to implement the SMM program in the Cinergy Electricity and Entergy Electricity futures contracts, which were approved by the Commission for trading on March 23, 1998. NYMEX anticipates listing the two new electricity futures contracts for trading within the next few months. The SMM program may be extended to other new or low-volume futures contracts at a later date.

B. SMM Eligibility Criteria

Applications for SMM positions would be accepted from members and member firms. Applications also would be accepted from individuals and firms that were not members or member firms. Appointment as an SMM could not occur however, until the individual or firm had been approved by the NYMEX Board of Directors as a member or member firm.

NYMEX would establish a new Exchange Committee, the Specialist Review Committee ("SRC"). The SRC would assess each SMM applicant's financial resources, operational capabilities, trading experience, regulatory history, and ability and willingness to promote NYMEX as a marketplace and would report its findings to the Board of Directors. Prospective SMM applicants also would need to demonstrate that they have the ability to provide multiple qualified personnel with the capability to perform the defined SMM obligations and have working capital in excess of $500,000. The Board of Directors would make the final decision as to which applicants to appoint as SMMs.

Only one SMM would be appointed for each contract market eligible for the SMM program. The Board of Directors, however, may appoint a member or member firm as an SMM for more than one contract market.

For any market for which an SMM has been appointed, the Exchange would issue an SMM trading permit to the SMM. The permit would allow the member or member firm to perform the SMM functions without incurring the cost of dedicating a membership for use in that designated futures contract. Thus, for example, if a member firm with two full NYMEX memberships were appointed an SMM in a new contract, the member firm would be permitted to act as the SMM for the new

market while also retaining the trading privileges associated with the two full memberships.

C. Duties of the SMM

The SMM's rights and obligations would be set forth in a written agreement (the "SMM Agreement").[1] The SMM Agreement would require the SMM to provide a continuous physical presence on the floor of the Exchange throughout the regular trading session in order to maintain an orderly market in the appointed futures contract. During the trading session of the appointed market, the SMM would continuously provide bid and offer quotes for outright futures trades and price differentials for spread transactions for the contract delivery months set forth in the SMM Agreement.

The SMM Agreement would establish a maximum bid/offer quote spread and maximum price differential for certain contract delivery months.[2] At a given bid or offer, the SMM would be obligated to satisfy all bids and offers in the ring at the same price up to a predefined maximum number of contracts for any one trade.[3] In complying with this obligation for a particular price, the SMM could fill a bid or offer, as applicable, with one or more limit orders maintained in a limit order book at that price (the limit order book is discussed further below), with a trade for the SMM's proprietary account, or with a combination of limit orders and trading for his or her proprietary account.

NYMEX anticipates that a maximum bid/offer quote spread and maximum price differential would be set only for the "near" months (*e.g.*, for one to three months out from the front-month contract) and the most active spread transactions. In addition, the SMM Agreement may provide for a maximum bid/offer quote spread and price differential during usual market conditions and a larger maximum bid/offer quote spread and price differential during periods of extreme volatility, extreme trading volume, or market emergencies. The SMM Agreement would define these "unusual" market conditions for the purposes of the SMM program.

The SMM also would be required to maintain an order book of limit orders ("OB") in the markets for which he or she has been appointed an SMM. The limit orders could be for outright futures trades or spread transactions. The term "Order Book Official" ("OBO") would be used to refer to the SMM whenever the SMM was acting in the capacity of managing the OB.

A customer may elect to have a limit order given to the SMM for inclusion in the OB. NYMEX members also may place limit orders for their proprietary accounts with the SMM for inclusion in the OB. The OBO would be obligated to accept all limit orders presented for inclusion in the OB. Customers also may request that non-limit orders be given to the OBO for execution. The OBO would not be obligated to accept non-limit orders.

Upon a request from a member or clerk on the trading floor, the OBO would be required to disclose the prices, quantities and contract delivery months for the limit orders held in the OB. The promptness of the OBO's response would depend upon market conditions.

All orders presented to the OBO would have to be in writing. Orders entered into the OB would be executed on a price-priority and time-priority basis. The Exchange would provide the OBO with a time-stamp clock in the trading ring, and the OBO would be required to time-stamp each limit order that he or she received.

The proposal also would provide that the SMM may, at his or her discretion, respond to a request for a bid or offer as part of a large-order execution procedure. The SMM would be permitted to survey the ring to determine if other floor members were interested in participating in responding to the request.[4]

D. Transaction Priorities

The SMM program would provide certain trading priorities to the OBO and to the SMM. With respect to the execution of limit orders in the OB, the OBO would have a 100% priority right over other proprietary traders and floor brokers in the ring for trades that take place at the OBO's bid or offer. For example, if the OB contained limit orders to buy a total of 10 contracts at a price of 40, the OBO would have a right to participate in any transactions executed at a price of 40 in the trading ring until all 10 of the limit orders in the OB were executed. With respect to this priority, no distinction would be made between members and customer limit orders in the OB.

In connection with the SMM's proprietary account, the SMM would have priority rights with respect to trades executed (1) against the OB; (2) in the ring and within the SMM's bid/offer spread; and (3) as a cross-trade against the OB. The SMM, however, would not be obligated to exercise his or her priority rights. The extent of each of these priorities is specified below.

The SMM would have a 10% priority right with respect to any transaction executed opposite the OB. For example, if a floor broker executed a trade opposite the OB for 20 contracts at a price of 39, the SMM may exercise his or her priority right and "take" 2 of the contracts at a price of 39 from the floor broker.

The SMM would have a 40% priority right with respect to trades executed in the trading ring that do not involve the OB and are within the SMM's bid/offer spread. For example if the SMM's spread is bid 40 and offer 50, and two floor brokers execute a trade for 20 contracts at a price of 40, the SMM may exercise his or her right to buy 8 of the contracts from the selling floor broker.

The SMM may trade for his or her proprietary account against the OB, provided that the SMM follows the cross-trade procedures set forth in NYMEX Rule 6.40, including announcing the price and quantity of the contracts to be purchased and sold to the trading ring three times and executing the transaction in the presence of an Exchange employee designated to observe such transactions. If one or more floor members respond to the SMM's bid and offer, the SMM may exercise a right of priority to a maximum of 40% of the transaction. For example, if the OB contained limit orders to buy a total of 10 contracts at a price of 30, the SMM may elect to trade opposite the OB by announcing three times the bid and offer for 10 contracts at a price of 30 to the other floor members in the trading ring. If other floor members respond to the announcement by offering to sell 10 contracts at 30, the SMM may elect to exercise his or her priority and trade against four of the contracts in the OB. The remaining six contracts would go to the other floor members in the trading ring who wished to participate in the transaction.[5]

[1] The SMM Agreement would be negotiated by the SMM and SRC and would be subject to the approval of the NYMEX Board of Directors.

[2] The duration of the SMM's term would be set forth in the SMM Agreement.

[3] The maximum number of contracts that the SMM would be obligated to fill at any one price would be set forth in the SMM Agreement.

[4] NYMEX current does not have a rule governing large-order executions. The Exchange has stated that it would submit a proposed large-order execution rule to the Commission pursuant to Section 5a(a)(12)(A) of the Act and Commission Regulation 1.41(c) prior to its implementation.

[5] The proposal would require a member or member firm using the SMM facility for the execution of customer limit orders to disclose in writing to the customer that the SMM may trade against such orders and that the customer may choose not to place a limit order with the SMM.

The SMM's priorities would extend to floor members executing trades for proprietary accounts and floor brokers executing customer orders. Therefore, the SMM's priority may preempt the execution of customer orders.

E. Contract Development Fee

The SMM would receive a contract development fee ("CDF") as an incentive to perform the SMM function. The terms and duration of the CDF would be set forth in the SMM Agreement, and would be based upon the level of customer trading volume in the designated contract. Unless otherwise provided in the SMM Agreement, the SMM would receive $8,000 per month if monthly customer trading volume was less than 3,500 contracts. Once monthly customer trading volume exceeded 3,500 contracts, the SMM would receive $8,000 plus a per contract fee for each transaction in excess of 3,500 that involved a customer order.

F. Specialist Floor Brokers

The proposal would permit the SMM to contract with one or more floor brokers ("Specialist Floor Brokers" or "SFB") to perform all or part of the SMM function. For example, the SMM may contract with the SFB to manage the OB and to perform all of the OBO obligations, including the OB's priority with respect to trading against the OB.

The proposal would give significant latitude to the SMM to contract with an SFB. However, any contract between an SMM and an SFB would be subject to the review and approval of the SRC. The proposal also would provide that the SMM would be principally liable to the Exchange for the execution of all SMM obligations and duties.

II. Request for Comments

The Commission requests comments from interested persons concerning any aspect of NYMEX's proposed SMM program that the commenters believe raise issues under the Act or Commission Regulations. In particular, the Commission requests comments regarding the appropriateness of: (1) Permitting members to place limit orders for their own accounts in the OB; (2)permitting member limit orders to be executed ahead of customer limit orders that are at the same price, but received by the OBO at a later time; (3) granting the SMMs trading priorities, including the priority to trade against the OB; and (4) permitting the SMM's trading priority to preempt the execution of customer orders in the trading ring.

Copies of the proposed new Rule 6.45 and the proposed amendments to Rule 6.43A and related materials are available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 418–5100.

Any person interested in submitting written data, views, or arguments on the proposed SMM program should send such comments, by the specified date, to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581; transmitted by facsimile to (202) 418–5521; or transmitted electronically to secretary@cftc.gov.

Issued in Washington, DC, on May 11, 1998.

Alan L. Seifert,

Deputy Director.

[FR Doc. 98–12970 Filed 5–14–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 14, 1998.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Force Management Policy/DeCA), ATTN: Herman Weaver, 1300 E Avenue, Ft. Lee, Virginia 23801–1800.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (804) 734–8322.

Title, Associated Form, and OMB Control Number: Commissary Customer Service Survey, DeCA Form 60–28, 0704–0380.

Needs and uses: This information collection requirement is necessary to the Defense Commissary Agency for the purpose of measuring customer service, which is our number one Strategic and Performance goal. This management tool uses a survey instrument designed to extract objective, subjective, and demographic information from our customers so we can better serve their needs. The results will be reported and distributed to the regional headquarters and commissaries to use the past and present trends for the purpose of future improvement. Also, the results will directly affect our policies and quality initiatives for an efficient and cost-effective commissary system.

Affected Public: Individuals or households.

Annual Burden Hours: 1,200 hours.

Number of Respondents: 18,000.

Responses per Respondent: 1.

Average Burden per Response: 4 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The primary purpose of this information collection is to determine how well each commissary is satisfying the customer. This will serve as a baseline measure for future trends and provide defense officials vital information to make cost-effective management decisions. The information received will be of benefit to return patrons, as well as inspire new customers, which should increase our surcharge accounts to provide new commissary construction and renovations. Our primary goal is to preserve the military's most valued benefit through enhanced customer satisfaction.

Each commissary, both stateside and overseas, will receive the Commissary Customer Service Survey. Each commissary officer will select an administrator who will distribute the surveys randomly three times each day (one hour after store opens, mid-day,

and two hours before closing) for ten consecutive days. The following subject areas will be covered in the survey: customer relations, savings, cleanliness, scheduling, atmosphere, quality of meat and produce, managers' and employees' knowledge and helpfulness, and the customer's most valued benefit of commissaries.

Dated: May 11, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–12967 Filed 5–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS), Subcontracting Policies and Procedures—DFARS Part 244; OMB Number 0704–0253.

Type of Request: Extension.

Number of Respondents: 90.

Responses per Respondent: 1.

Annual Responses: 90.

Average Burden per Response: 16 hours.

Annual Burden Hours: 1,400.

Needs and Uses: The collection of this information is considered by the administrative contracting officer before making a decision on granting, withholding, or withdrawing purchasing system approval at the conclusion of a contractor purchasing system review. Withdrawal of purchasing system approval would necessitate Government consent to individual subcontracts in accordance with section 44.102 of the Federal Acquisition Regulation. The information collection includes the requirements of DFARS 244.305–70, which requires the administrative contracting officer, at the completion of the in-plant portion of the contractor purchasing system review, to request the contractor to submit within 15 days, its plan for correcting deficiencies or making improvements to its purchasing system.

Affected Public: Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 11, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–12966 Filed 5–14–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0077]

Submission for OMB Review; Comment Request Entitled Quality Assurance Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Quality Assurance Requirements. A request for public comments was published at 63 FR 11424, March 9, 1998. No comments were received.

DATES: Comments may be submitted on or before June 15, 1998.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0077, Quality Assurance Requirements, in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

Supplies and services acquired under Government contracts must conform to the contract's quality and quantity requirements. FAR Part 46 prescribes inspection, acceptance, warranty, and other measures associated with quality requirements. Standard clauses related to inspection (a) require the contractor to provide and maintain an inspection system that is acceptable to the Government; (b) give the Government the right to make inspections and test while work is in process; and (c) require the contractor to keep complete, and make available to the Government, records of its inspection work.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.25* hours per response including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows:

Respondents, *950*; responses per respondent, *1*; total annual responses, *950*; preparation hours per response, *.25*; and total response burden hours, *237.5 (238)*.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *58,060*; hours per recordkeeper, *.68*; and total recordkeeping burden hours, *39,481*. The total annual burden is *238 + 39,481 = 39,719*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (VRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0077, Quality Assurance Requirements, in all correspondence.

Dated: May 12, 1998.
Sharon A. Kiser,
FAR Secretariat.
[FR Doc. 98–12949 Filed 5–14–98; 8:45 am]
BILLING CODE 6820–34–P

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics, (ACES)

AGENCY: U.S. Department of Education.
ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics (ACES). This notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: May 21–22, 1998.

TIMES: May 21, 1998—Full Council, 9:00 a.m.–10:45 a.m.; Management Committee, 10:45 a.m.–4:30 p.m.; Statistics Committee, 10:45 a.m.–4:40 p.m.; Strategy/Policy 10:45 a.m.–4:30 p.m.

May 22, 1998—Full Council 12 noon to 3:00 p.m.; Statistics Committee, 8:30 a.m.–12:00 noon; Strategy/Policy Committee, 8:30 a.m. to 12 noon; and Management Committee, 8:30 to 12 noon.

LOCATION: Phoenix Park Hotel, 520 North Capitol Street NW, Washington D.C. 20001.

FOR FURTHER INFORMATION CONTACT: Barbara Marenus, National Center for Education Statistics, 555 New Jersey Ave, NW, Room 400J, Washington, D.C. 20208–5530—(202) 219–1835.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics (ACES) is established under Section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement and is responsible for advising on standards to insure that statistics and analyses disseminated by NCES are of high quality and are not subject to political influence. In addition, ACES is required to advise the Commissioner of NCES and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Education Progress (NAEP). The meeting of the Council is open to the public.

The proposed agenda for the full Council includes the following:

- A status report from the NCES Commissioner on major Center initiatives; and
- The presentation of Committee reports.

Individual meetings of the three ACES subcommittees will focus on specific topics:

- The agenda for the Management Committee includes discussion on the results from the 1997 Customer Service Survey, a report on the development of partnerships with external organizations, a discussion of "capacity building" activities for NCES, and discussion on NCES's program planning activities.
- The agenda for the Statistics Committee includes a discussion of the emerging issues in NCES's licensing policy, a discussion of the response probability convention in assessment scales, and a report on race/ethnicity reporting issues.
- The agenda for the Strategy/Policy Committee includes a discussion of redesign issues in the Schools and Staffing Survey, a discussion of a new longitudinal cohort study and a briefing on school crime data collections options.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 555 New Jersey Avenue, NW, Room 400J, Washington, D.C. 20208–7575.

Ricky Takai,
Acting Assistant Secretary for Educational Research and Improvement.
[FR Doc. 98–13023 Filed 5–14–98; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada Test Site

AGENCY: Department of Energy.
ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site.

DATES: Wednesday, June 3, 1998: 5:30 p.m.—9:00 p.m.

ADDRESSES: U.S. Department of Energy, Nevada Support Facility, Great Basin Room, 232 Energy Way, North Las Vegas, Nevada.

FOR FURTHER INFORMATION CONTACT: Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193–8513, phone: 702–295–0197.

SUPPLEMENTARY INFORMATION: Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

5:30 p.m. Call to Order
5:40 p.m. Presentations
7:00 p.m. Public Comment/Questions
7:30 p.m. Break
7:45 p.m. Review Action Items
8:00 p.m. Approve Meeting Minutes
8:10 p.m. Committee Reports
8:45 p.m. Public Comment
9:00 p.m. Adjourn

Copies of the final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Kevin Rohrer, at the telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC on May 11, 1998.
Rachel Samuel,
Deputy Advisory Committee Management Officer.
[FR Doc. 98–12999 Filed 5–14–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.
ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, June 3, 1998 6:00 p.m.—9:30 p.m.

ADDRESSES: Ramada Inn, 420 South Illinois Avenue, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Marianne Heiskell, Ex-Officio Officer, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–0314.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: A public informational meeting on the "Intersite Discussion Workshops" being sponsored by the League of Women Voters will be conducted.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Marianne Heiskell at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Marianne Heiskell, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–0314.

Issued at Washington, DC on May 11, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–13000 Filed 5–14–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Monticello Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Board.

Committee Meeting: Environmental Management Site-Specific Advisory Board, Monticello Site.

Date and Time: Wednesday, June 17, 1998; 7:00 p.m.

Address: San Juan County Courthouse, 2nd Floor Conference Room, 117 South Main, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Audrey Berry, Public Affairs Specialist, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO, 81502 (970) 248–7727.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to advise DOE and its regulators in the areas of environmental restoration, waste management, and related activities. Tentative Agenda: Update on project status, future land use, and Monticello surface and groundwater.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Audrey Berry's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Audrey Berry, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO 81502, or by calling her at (303) 248–7727.

Issued at Washington, DC on May 11, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–13001 Filed 5–14–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–521–000]

Columbia Gas Transmission Corporation; Notice of Application

May 11, 1998.

Take notice that on May 5, 1998, Columbia Gas Transmission Corporation (Columbia), P.O. Box 10146, Fairfax, Virginia 22030, filed an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations thereunder for an order granting permission and approval to abandon by transfer certain natural gas facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Columbia proposes to abandon twenty (20) meters used to measure receipts of volumes from independent producers located in Ohio, Pennsylvania and New York. On July 31, 1991, Columbia filed for protection under Chapter 11 of the United States Bankruptcy Code. In the process of liquidating claims, Columbia entered into settlement agreements with individual producers which involved, among other things, Columbia's agreement to transfer to the settling producers certain receipt meters. These meters were no longer needed by Columbia to support gas purchase activity but were of interest to the producers who would continue to introduce gas into Columbia's system for transportation.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition 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 petition for leave 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 provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12923 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–448–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

May 11, 1998.

Take notice that on May 1, 1998, NorAm Gas Transmission Company (NGT), 1111 Louisiana Street, Houston, Texas 77210–4455, filed in Docket No. CP98–448–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon certain facilities in Texas, under NGT's blanket certificate issued in Docket No. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT specifically proposes to abandon and reclaim a 1-inch, inactive, domestic tap on Line CM–14 in Bowie County, Texas that delivered gas to Arkla, a distribution division on NorAm Energy Corp. for supplementary service to Hooks County School District. Arkla has notified NGT that it no longer needs this tap and that the school has requested that the tap be removed to allow cleanup on the location. NGT will reclaim the tap at an estimated cost of $579 and Arkla will reimburse NGT for $464 of this cost.

NGT states that the proposed abandonment is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the proposed changes without detriment or disadvantage to NGT's other customers. No service will be abandoned as a result of removing this tap.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is failed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12920 Filed 5–14–98; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–323–001]

Norteño Pipeline Company; Notice of Petition for Waiver

May 11, 1998.

Take notice that on April 30, 1998, Norteño Pipeline Company (Norteño) tendered for filing a petition for extension of waiver of certain Commission Order Nos. 587–B, 587–C, and 587–G requirements, or in an alternative, extension of the waiver until abandonment by sale of the pipeline facilities.

Norteño states that it has served copies of the filing on each person designated on the official service list compiled by the Secretary of FERC in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before May 18, 1998. 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12928 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–203–001]

Northern Natural Gas Company; Notice of Compliance Filing

May 11, 1998.

Take notice that on May 6, 1998, Northern Natural Gas Company (Northern) tendered for filing changes in the its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective June 1 1998:

First Revised Sheet No. 415
First Revised Sheet No. 416

On May 1, 1998, Northern filed in this Docket a general rate case. The reason for this filing is to comply with the Commission's May 5 order in this Docket requiring Northern to refile Sheet Nos. 415 and 416 to correct pagination duplications. No changes were made to the contents of the sheets.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12929 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 20, 472, and 2401]

PacificCorp; Notice of Staff Attendance at Relicensing Meeting

May 11, 1998.

Staff from the Federal Energy Regulatory Commission, Office of Hydropower Licensing, will be attending a May 28, 1998, Technical Advisory Committee meeting in Pocatello, Idaho on the relicensing of Pacificorp's Soda, Grace-Cove, and Oneida hydroelectric projects. The meeting will be conducted by Pacificorp and will include briefings on the status of the relicensing process, flow issues, and PacificCorps's proposed enhancement measures.

A meeting agenda may be obtained from Michael Burke of PacifiCorp at 503–464–5344.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12924 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. FR98–2270–000]

PEI Power Corporation; Notice of Issuance of Order

May 12, 1998.

PEI Power Corporation (PEI) submitted for filing a rate schedule under which PEI will engage in wholesale electric power and energy transactions as a marketer. PEI also requested waiver of various Commission regulations. In particular, PEI requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by PEI.

On May 8, 1998, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by PEI should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., 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).

Absent a request for hearing within the period, PEI is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of PEI's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protest, as set forth above, is June 8, 1998. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, D.C. 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13002 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–280–002]

Petal Gas Storage Company; Notice of Proposed Changes In FERC Gas Tariff

May 11, 1998.

Take notice that on May 7, 1998, Petal Gas Storage Company (Petal) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, substitute revised tariff sheets (Sheet Nos. 11, 116 and 124) with proposed effective dates of June 1, 1998.

Petal states that the filing is made in compliance with the Commission's April 22, 1998 Letter Order in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provide 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12927 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–464–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

May 11, 1998.

Take notice that on May 1, 1998, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed a request with the Commission in Docket No. CP98–464–000, pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to own, operate and maintain as a jurisdictional NGA facility, an existing delivery point on Texas Eastern's existing 24-inch Line No. 1 in Pulaski County, Arkansas, which had been constructed to make natural gas deliveries to ARKLA, a division of NorAm Energy Corporation, and a local distribution company, authorized in blanket certificate issued in Docket No. CP82–535–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern proposes to construct a delivery tap consisting of a 2-inch tap valve and a 2-inch check valve (Tap) on Texas Eastern's 24-inch Line No. 1, at approximate Mile Post 209.28 in Pulaski County, Arkansas. In addition to the Tap that Texas Eastern installed, ARKLA installed a dual turbine meter run, approximately 25 feet of 4-inch pipeline which extends from the Meter Station to the Tap, and electronic gas measurement equipment.

Texas Eastern states that the authorization requested would have no effect on Texas Eastern's peak day or annual deliveries. Texas Eastern submits that service to Arkla is accomplished without determent or disadvantage to Texas Eastern's other customers.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 a protest to the request. If no protest is filed within the allowed time, the proposed activity will be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request will be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12921 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–516–000]

Texas Gas Transmission Corporation; Notice of Request Under Blanket Authorization

May 11, 1998.

Take notice that on May 4, 1998, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP98–516–000 a request pursuant to Sections 157.205, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, 157.216) for authorization replace and reconfigure facilities in Madison County, Tennessee under Texas Gas's blanket certificate issued in Docket No. CP82–407–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Gas states that it proposes to replace the existing dual 8-inch meter runs and 6-inch regulation runs with dual 6-inch meter runs and 4-inch regulation runs and associated headers and piping at its Jackson No. 1 delivery meter station located at its Jackson No. 1 delivery meter station located at the termination of Texas Gas's 8-inch Ripley Jackson Line. In addition the station will also be reconfigured by reversing the current placement of the regulation and the meter runs so that the meter runs will be placed in front of the or upstream of the regulation runs.

Texas Gas states that the estimated cost of reconfiguring these facilities is estimated to be $215,000 and that the proposal will have no significant effect on Texas Gas's peak day and annual deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12922 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2884–000, et al.]

Illinois Power Company, et al. Electric Rate and Corporate Regulation Filings

May 7, 1998.

Take notice that the following filings have been made with the Commission:

1. Illinois Power Company

[Docket No. ER98–2884–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which PPG Industries, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light Company, South Beloit Water, Gas & Electric Company Heartland Energy Services and Industrial Energy Applications, Inc.

[Docket Nos. EC96–13–000, ER96–1236–000, and ER96–2560–000]

Take notice that on May 4, 1998, Alliant Services, Inc. (Alliant), on its own behalf and on behalf of IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light Company, South Beloit Water, Gas & Electric Company, Heartland Energy Services and Industrial Energy Applications, Inc. (the IEC Operating Companies), submitted an amendment to its filing in these dockets.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Rochester Gas and Electric Corporation

[Docket No. ER98–2886–000]

Take notice that on May 4, 1998, Rochester Gas and Electric Corporation (RG&E), filed a Service Agreement between RG&E and the SCANA Energy Marketing, Inc., (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of April 28, 1998, for the SCANA Energy Marketing, Inc., Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Illinois Power Company

[Docket No. ER98–2887–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which NGE Generation, Inc., will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 27, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Illinois Power Company

[Docket No. ER98–2888–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Archer Daniels Midland Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 30, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER98–2889–000]

Take notice that on May 4, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements under Idaho Power Company FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and Black Hills Power & Light Co.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Rochester Gas and Electric Corporation

[Docket No. ER98–2890–000]

Take notice that on May 4, 1998, Rochester Gas and Electric Corporation (RG&E), filed a Market Based Service Agreement between RG&E and Cinergy Capital & Trading Marketing Inc., (Customer). This Service Agreement specifies that the Customer has agreed to the rates, term and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 3 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–3556–000 (80 FERC ¶61,284).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of April 20th, Strategic Energy Ltd's Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER98–2891–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which VTEC Energy, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Electric Power Company

[Docket No. ER98–2892–000]

Take notice that on May 4, 1998, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a short term firm transmission service agreement between itself and Pennsylvania Power and Light Company, Inc. (PP&L), under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission consideration in Docket No. OA97–578. Wisconsin Electric respectfully requests an effective date coincident with its filing. Wisconsin Electric is authorized to state that PP&L joins in the requested effective date.

Copies of the filing have been served on PP&L, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. South Carolina Electric & Gas Company

[Docket No. ER98–2893–000]

Take notice that on May 4, 1998, South Carolina Electric & Gas Company (SCE&G), submitted service agreements establishing Equitable Power Services Company (EPSC) and Federal Energy Sales, Inc. (FES), as customers under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon EPSC, FES, and the South Carolina Public Service Commission.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Illinois Power Company

[Docket No. ER98–2894–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Central Illinois Light Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 15, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Illinois Power Company

[Docket No. ER98–2895–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Tenneco Packaging, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 30, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Illinois Power Company

[Docket No. ER98–2896–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Illinois State University will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Illinois Power Company

[Docket No. ER98–2897–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Caterpillar, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are

based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 23, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Illinois Power Company

[Docket No. ER98–2898–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Granite City Steel Corporation will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 22, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Illinois Power Company

[Docket No. ER98–2902–000]

Take notice that on May 4, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing non-firm transmission agreements under which AYP Energy, Inc., will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 27, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Illinois Power Company

[Docket No. ER98–2903–000]

Take notice that on May 4, 1998, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Old Dominion Electric Cooperative will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of April 15, 1998.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. New York State Electric & Gas Corporation

[Docket No. ER98–2904–000]

Take notice that on May 4, 1998, New York State Electric & Gas Corporation (NYSEG), filed Service Agreements between NYSEG and AYP Energy, Inc., (Customer). These Service Agreements specify that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on June 11, 1997, in Docket No. OA97–571–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of May 4, 1998, for the AYP Energy, Inc., Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Public Service Corporation

[Docket No. ER98–2905–000]

Take notice that on May 4, 1998, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Short Term Firm Transmission Service Agreement between WPSC and Wisconsin Public Power Inc., providing for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Wisconsin Public Service Corporation

[Docket No. ER98–2906–000]

Take notice that on May 4, 1998, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement between WPSC and Wisconsin Public Power Inc., provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Western Resources, Inc.

[Docket No. ER98–2907–000]

Take notice that on May 4, 1998, Western Resources, Inc., (Western Resources), on its behalf and on behalf of Kansas Gas and Electric Company (KGE), tendered for filing revised exhibits and service schedules to the Electric Power, Transmission and Service contracts between Western Resources and Kansas Electric Power Cooperative, Inc. (KEPCo), and between KGE and KEPCo. Western Resources states that these revisions more closely align KEPCo's transmission and ancillary service schedules with Western Resources' open-access tariff for such services.

Copies of the filing were served upon Kansas Electric Power Cooperative, Inc., and the Kansas Corporation Commission.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Rochester Gas and Electric Corporation

[Docket No. ER98–2909–000]

Take notice that on May 4, 1998, Rochester Gas and Electric Corporation (RG&E), filed a Market Based Service Agreement between RG&E and Federal Energy Sales, Inc., (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 3 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–3553–000, *et al.* (80 FERC ¶ 61,284).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of April 29th, Federal Energy Sales, Inc., Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: May 22, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12932 Filed 5–14–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL98–43–000, et al.]

Minnesota Power Light Company, et al.; Electric Rate and Corporate Regulation Filings

May 6, 1998.

Take notice that the following filings have been made with the Commission:

1. Minnesota Power & Light Company

[Docket No. EL98–43–000]

Take notice that on April 24, 1998, Minnesota Power & Light Company (Minnesota Power), submitted for filing revisions to its Schedule 93, Resale Service—Full Requirements Municipalities and Rural Utilities, and Schedule 99, Resale Service—Private Utilities in conjunction with its request for waiver of the Commission's fuel clause regulations.

A copy of the filing has been provided to the Minnesota Public Utilities Commission and the Minnesota Department of Public Service.

Comment date: May 29, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Duke Power Company

[Docket No. ER97–2398–000]

Take notice that on May 1, 1998, Duke Power, a division of Duke Energy Corporation, tendered for filing an amendment in the above-reference docket.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Company

[Docket No. ER98–1106–000]

Take notice that on May 1, 1998, the New England Power Pool (NEPOOL), Executive Committee, acting on behalf of the New England Power Company and the other New England electric utilities that are subject to the Commission's jurisdiction that are parties to the Agreement with Respect to Use of Quebec Interconnection dated as of December 1, 1981, as amended and restated as of September 1, 1985, and as further amended and restated by the Second Amended and Restated Agreement with Respect to Use of Quebec Interconnection, dated as of November 19, 1997 (the Filing Parties), filed an Amendment to Second Amended and Restated Agreement with Respect to Use of Quebec Interconnection (Amendment), dated as of April 8, 1998.

On behalf of the Filing Parties, the NEPOOL Executive Committee states that the Amendment (I) resolves objections of Unitil Power Corp., to the Second Amended and Restated Agreement with Respect to Use of Quebec Interconnection and (ii) resolves a technical issue raised by ISO New England Inc.

The Filing Parties request an effective date of April 30, 1998, for certain of the provisions of the Second Restated Use Agreement that are amended by the Amendment, and an effective date for the remaining provisions of the Amendment on the Second Effective Date. The NEPOOL Executive Committee states that copies of the filing were sent to all participants and indirect participants in the Interconnection, the New England public utility commissions, the New England governors, and all parties to Docket No. ER98–1106–000.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER98–1438–000]

Take notice that on April 30, 1998, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), tendered for filing certain additional executed signature pages in order to supplement its January 15, 1998, filing in Docket No. ER98–1438.

Specifically, the Midwest ISO tendered signature pages to the "Agreement of the Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., A Delaware Non-Stock Corporation," and the "Agency Agreement for Open Access Transmission Service Offered by the Midwest ISO for Nontransferred Transmission Facilities" executed by Interstate Energy Corporation d.b.a. Alliant Corporation on behalf of South Beloit Water, Gas & Electric Company, IES Utilities, Inc., Interstate Power Company and Wisconsin Power & Light Company.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. California Independent System Operator Corporation

[Docket Nos. ER98–1933–000]

Take notice that on May 1, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a fully-executed Participating Generator Agreement, dated March 31, 1998, between Long Beach Generation LLC and the ISO for acceptance by the Commission.

The ISO states that the enclosed Participating Generator Agreement replaces the contract that the ISO filed unilaterally in this proceeding on February 18, 1998. This filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. California Independent System Operator Corporation

[Docket Nos. ER98–2115–000]

Take notice that on May 1, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a fully-executed Participating Generator Agreement, dated April 8, 1998, between the California Department of Water Resources and the ISO for acceptance by the Commission.

The ISO states that the enclosed Participating Generator Agreement replaces the contract that the ISO filed unilaterally in this proceeding on March 6, 1998. This filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Company Services, Inc.

[Docket No. ER98–2753–000]

Take notice that on April 30, 1998, Southern Company Services, Inc., acting on behalf of Alabama Power Company, Georgia Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies), submitted a report of short-term transactions that occurred under the Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) during the period January 1, 1998 through March 31, 1998.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. The Cincinnati Gas & Electric Company and PSI Energy, Inc.

[Docket No. ER98–2755–000]

Take notice that on April 30, 1998, The Cincinnati Gas & Electric Company and PSI Energy, Inc., tendered for filing their quarterly transaction report for the calendar quarter ending March 31, 1998.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. NorAm Energy Services, Inc.

[Docket No. ER98–2851–000]

Take notice that on April 29, 1998, NorAm Energy Services, Inc., tendered for filing its quarterly report for short-term transactions under market based rate sales tariffs of Oste Power Generation, L.L.C.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. NorAm Energy Services, Inc.

[Docket No. ER98–2852–000]

Take notice that on April 29, 1998, NorAm Energy Services, Inc., tendered for filing its quarterly report for short-term transactions under market based rate sales tariffs of Mountain Vista Power Generation, L.L.C.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. NorAm Energy Services, Inc.

[Docket No. ER98–2854–000]

Take notice that on April 29, 1998, NorAm Energy Services, Inc., tendered for filing its quarterly report for short-term transactions under market based rate sales tariffs of Ocean Vista Power Generation, L.L.C.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Alden Engineering Company

[Docket No. ER98–2622–000]

Take notice that on April 20, 1998, Alden Engineering Company tendered for filing an Interconnection Agreement with the Public Service Company of New Hampshire.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Freshwater Hydro, Inc.

[Docket No. ER98–2631–000]

Take notice that on April 22, 1998, Freshwater Hydro, Inc., owner of the Ashland Paper Mill Hydroelectric Project (Project No. 5638), made a conditional tariff filing in compliance with the Commission's order of February 11, 1998 in Connecticut Valley Electric Company, L.P. *et al.*, Docket Nos. EL94–10, *et al.*, 82 FERC 61,116 (1998).

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Nevada Power Company

[Docket No. ER98–2666–000]

Take notice that on April 14, 1998, Nevada Power Company tendered for filing Amendment No. 1 to Agreement for Transmission Service Among Nevada Power Company and Overton Power District No. 5, and Lincoln County Power District No. 1.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Orange and Rockland Utilities, Inc.

[Docket No. ER98–2670–000]

Take notice that on April 24, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing its Summary Report of O&R transactions during calendar quarter ending March 31, 1998, pursuant to the market based rate power service tariff, made effective by the Commission on March 27, 1997 in Docket No. ER98–1400–000.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. Yadkin, Inc.

[Docket No. ER98–2673–000]

Take notice that on April 24, 1998, Yadkin, Inc., tendered for filing a summary of activity for the quarter ending March 31, 1998.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Florida Power & Light Company

[Docket No. ER98–2674–000]

Take notice that on April 24, 1998, Florida Power & Light Company (FPL), filed its quarterly report for transactions during the calendar quarter ending March 31, 1998 under FPL's Market-Based Rate Tariff.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power

[Docket No. ER98–2677–000]

Take notice that on April 22, 1998, Allegheny Power filed its quarterly report for transactions during the calendar quarter ending March 31, 1998.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Delmarva Power & Light Company

[Docket No. ER98–2732–000]

Take notice that on April 29, 1998, Delmarva Power & Light Company (Delmarva), tendered for filing a summary of short-term transactions made during the first quarter of calendar year 1998 under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Power Corporation

[Docket No. ER98–2733–000]

Take notice that on April 29, 1998, Florida Power Corporation submitted a report of short-term transactions that occurred under its Market-Based Rate Wholesale Power Sales Tariff (FERC Electric Tariff, Original Volume No. 8) during the quarter ending March 31, 1998.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. Cinergy Capital & Trading

[Docket No. ER98–2757–000]

Take notice that on April 30, 1998, Cinergy Capital & Trading (CC&T), formerly Wholesale Power Services, Inc., tendered for filing CC&T's quarterly transaction report for the calendar quarter ending March 31, 1998.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. PECO Energy Company

[Docket No. ER98–2762–000]

Take notice that on April 30, 1998, PECO Energy Company (PECO), filed a summary of transactions made during the first quarter of Calendar Year 1998 under PECO's Electric Tariff Original Volume No. 1, accepted by the Commission in Docket No. ER95–770, as subsequently amended and accepted by the Commission in Docket No. ER97–316.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. NEV Midwest, L.L.C.

[Docket No. ER98–2771–000]

Take notice that on April 30, 1998, NEV Midwest, L.L.C. (NEV Midwest), submitted for filing in the above-referenced docket its quarterly report regarding transactions that occurred during the period January 1, 1998, through March 31, 1998, pursuant to its Market Rate Schedule accepted by the Commission in Docket No. ER97–4654–000.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. NEV California, L.L.C.

[Docket No. ER98–2780–000]

Take notice that on April 30, 1998, NEV California, L.L.C. (NEV California), submitted for filing in the above-referenced docket its quarterly report

regarding transactions that occurred during the period January 1, 1998 through March 31, 1998, pursuant to its Market Rate Schedule accepted by the Commission in Docket No. ER97–4653–000.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. NEV East, L.L.C.

[Docket No. ER98–2781–000]

Take notice that on April 30, 1998, NEV East, L.L.C. (NEV East), submitted for filing in the above-referenced docket its quarterly report regarding transactions that occurred during the period January 1, 1998 through March 31, 1998, pursuant to its Market Rate Schedule accepted by the Commission in Docket No. ER97–4652–000.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. Duke Power, a division of Duke Energy Corporation

[Docket No. ER98–2784–000]

Take notice that on April 30, 1998, Duke Power (Duke), a division of Duke Energy Corporation, tendered for filing Schedule MR quarterly transaction summaries for service under Duke's FERC Electric Tariff, Original Volume No. 3, for the quarter ended March 31, 1998.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. New Energy Ventures, L.L.C.

[Docket No. ER98–2788–000]

Take notice that on April 30, 1998, New Energy Ventures, L.L.C. (NEV, L.L.C.), submitted for filing in the above-referenced docket its quarterly report regarding transactions that occurred during the period January 1, 1998 through March 31, 1998, pursuant to its Market Rate Schedule accepted by the Commission in Docket No. ER97–4636–000.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. New Energy Ventures, Inc.

[Docket No. ER98–2789–000]

Take notice that on April 30, 1998, New Energy Ventures, Inc. (NEV, Inc.), submitted for filing in the above-referenced docket its quarterly report regarding transactions that occurred during the period January 1, 1998 through March 31, 1998.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. The California Power Exchange Corporation

[Docket No. ER98–2810–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed unexecuted Meter Service Agreement for PX Participants for Sempra Trading Group for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Sempra Trading Group.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. The California Power Exchange Corporation

[Docket No. ER98–2811–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Northern California Power Agency for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Northern California Power Agency.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. The California Power Exchange Corporation

[Docket No. ER98–2812–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Power Exchange Corp., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Power Exchange Corp.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. The California Power Exchange Corporation

[Docket No. ER98–2813–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for The Washington Water Power Company for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Washington Water Power Company.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. The California Power Exchange Corporation

[Docket No. ER98–2814–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for City of Anaheim for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon City of Anaheim.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. The California Power Exchange Corporation

[Docket No. ER98–2815–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for City of Santa Clara/Silicon Valley Power for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon City of Santa Clara/Silicon Valley Power.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. The California Power Exchange Corporation

[Docket No. ER98–2816–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Sierra Pacific for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Sierra Pacific.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. The California Power Exchange Corporation

[Docket No. ER98–2817–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Morgan Stanley Capital Group Inc., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Morgan Stanley Capital Group Inc.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. The California Power Exchange Corporation

[Docket No. ER98–2818–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Citizens Power Sales for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Citizens Power Sales.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

38. The California Power Exchange Corporation

[Docket No. ER98–2819–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Automated Power Exchange, Inc., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Automated Power Exchange, Inc.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

39. The California Power Exchange Corporation

[Docket No. ER98–2820–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Aquila Power Corporation for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Aquila Power Corporation.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

40. The California Power Exchange Corporation

[Docket No. ER98–2821–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Peco Energy Company for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations.

The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Peco Energy Company.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

41. The California Power Exchange Corporation

[Docket No. ER98–2822–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Shell Martinez Refinery Company for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential

treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Shell Martinez Refinery Company.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

42. The California Power Exchange Corporation

[Docket No. ER98–2823–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for LG&E Energy Marketing for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon LG&E Energy Marketing.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

43. The California Power Exchange Corporation

[Docket No. ER98–2824–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Puget Sound Energy, Inc., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Puget Sound Energy, Inc.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

44. The California Power Exchange Corporation

[Docket No. ER98–2825–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Public Service Company of New Mexico for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Public Service Company of New Mexico.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

45. The California Power Exchange Corporation

[Docket No. ER98–2826–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Tucson Electric Power Company for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Tucson Electric Power Company.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

46. The California Power Exchange Corporation

[Docket No. ER98–2832–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Power Resource Managers for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Power Resource Managers.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

47. The California Power Exchange Corporation

[Docket No. ER98–2833–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Portland General Electric Company for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Portland General Electric Company.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

48. The California Power Exchange Corporation

[Docket No. ER98–2834–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed unexecuted Meter Service Agreement for PX Participants for Koch Energy Trading, Inc., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Koch Energy Trading, Inc.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

49. The California Power Exchange Corporation

[Docket No. ER98–2835–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement

for PX Participants for Pacific Power, Loc Investments for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Pacific Power, Loc Investments.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

50. The California Power Exchange Corporation

[Docket No. ER98–2836–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Bonneville Power Authority for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1,2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Bonneville Power Authority.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

51. The California Power Exchange Corporation

[Docket No. ER98–2837–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Coral Power, L.L.C., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Coral Power, L.L.C.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

52. The California Power Exchange Corporation

[Docket No. ER98–2838–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Southern Company for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Southern Company.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

53. The California Power Exchange Corporation

[Docket No. ER98–2839–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Montana Power Trading and Marketing Co., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Montana Power Trading and Marketing Co.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

54. The California Power Exchange Corporation

[Docket No. ER98–2840–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed, unexecuted Meter Service Agreement for PX Participants for Central and Southwest Energy Services for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon Central and Southwest Energy Services.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

55. The California Power Exchange Corporation

[Docket No. ER98–2841–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed unexecuted Meter Service Agreement for PX Participants for British Columbia Power Exchange for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon British Columbia Power Exchange.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

56. The California Power Exchange Corporation

[Docket No. ER98–2842–000]

Take notice that on May 1, 1998, the California Power Exchange Corporation (PX), tendered for filing a proposed unexecuted Meter Service Agreement for PX Participants for QST Energy Trading, Inc., for acceptance by the Commission in compliance with the Commission's order issued March 30, 1998, in Docket Nos. ER98–1955–000 and ER96–1663–007. The PX requests an effective date as of March 31, 1998, the day that the PX began operations. The PX also requests confidential treatment of Schedules 1, 2 and 4 on the grounds that such Schedules, when completed, might contain commercially sensitive information.

The PX states that this filing has been served upon QST Energy Trading, Inc.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

57. AES Redondo Beach, L.L.C.

[Docket No. ER98–2843–000]

Take notice that on May 1, 1998, AES Redondo Beach, L.L.C., tendered for filing pursuant to Rule 205, 18 CFR 285.205, a petition for blanket waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 2 (Ancillary Services) to be effective on the date that AES Redondo B each, L.L.C., acquires a generating facility.

AES Redondo Beach, L.L.C., intends to sell ancillary services at wholesale from an electric plant in Redondo Beach, California, and it proposes to sell four of these services subject to rates, terms and conditions to be negotiated with the buyer. Rate Schedule No. 2 (Ancillary Services) provides for the sale of regulation, spinning reserve, non-spinning reserve, and replacement reserve at prices arranged in the market.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

58. AES Huntington Beach, L.L.C.

[Docket No. ER98–2844–000]

Take notice that on May 1, 1998, AES Huntington Beach, L.L.C., tendered for filing pursuant to Rule 205, 18 CFR 285.205, a petition for blanket waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 2 (Ancillary Services) to be effective on the date that AES Huntington Beach, L.L.C., acquires a generating facility.

AES Huntington Beach, L.L.C., intends to sell ancillary services at wholesale from an electric plant in Huntington Beach, California, and it proposes to sell four of these services subject to rates, terms and conditions to be negotiated with the buyer. Rate Schedule No. 2 (Ancillary Services) provides for the sale of regulation, spinning reserve, non-spinning reserve, and replacement reserve at prices arranged in the market.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

59. Dayton Power and Light Company

[Docket No. ER98–2846–000]

Take notice that on April 30, 1998, Dayton Power & Light Company tendered for filing a summary of 1st quarter market based sales.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

60. PacifiCorp

[Docket No. ER97–2847–000]

Take notice that on April 29, 1998, PacifiCorp tendered for filing in accordance the Commission's June 26, 1997, Order Docket No. ER97–2801–000, a Report showing PacifiCorp's transactions under PacifiCorp's FERC Electric Tariff, Original Volume No. 12 for the quarter ending on March 31, 1998.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

61. Alliant Service, Inc.

[Docket No. ER98–2848–000]

Take notice that on May 1, 1998, Alliant Services, Inc., tendered for filing an executed Service Agreement for Network Integration Transmission Service and an executed Network Operating Agreement, establishing Wisconsin Public Power Inc., as a Network Customer under the terms of the Alliant Services, Inc., transmission tariff.

Alliant Services, Inc., requests an effective date of June 1, 1997, for the service provided to loads located on its transmission system and an effective date of May 1, 1998, for loads not physically interconnection to the transmission providers system. Alliant Services, Inc., accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

62. Public Service Electric & Gas Company

[Docket No. ER98–2850–000]

Take notice that on April 29, 1998, Public Service Electric & Gas Company tendered for filing copies of the Transaction Summary of its activity for the first quarter of 1998, under its Market Based Rate Tariff, Original Volume No. 6.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

63. NorAm Energy Services, Inc.

[Docket No. ER98–2853–000]

Take notice that on April 29, 1998, NorAm Energy Services, Inc., tendered for filing its quarterly report for short-term transactions under market based rates sales tariffs of Alta Power Generation, L.L.C.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

64. Northeast Utilities Service Company

[Docket No. ER98–2855–000]

Take notice that on April 30, 1998, Northeast Utilities Service Company tendered for filing its summary report of transactions during the calendar quarter ending March 31, 1998.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

65. Union Electric Company

[Docket No. ER98–2856–000]

Take notice that on April 30, 1998, Union Electric Company tendered for filing its quarterly report detailing sale transactions undertaken for the quarter January 1, 1998 through March 31, 1998.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

66. Tampa Electric Company

[Docket No. ER98–2858–000]

Take notice that on May 1, 1998, Tampa Electric Company (Tampa Electric), tendered for filing a letter agreement that amends an existing letter of commitment providing for the sale of capacity and energy to the Florida Municipal Power Agency (FMPA).

Tampa Electric proposes that the letter agreement be made effective on May 2, 1998, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on FMPA and the Florida Public Service Commission.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

67. Orange and Rockland Utilities, Inc.

[Docket No. ER98–2860–000]

Take notice that on May 1, 1998, Orange and Rockland Utilities, Inc. (O&R), tendered for filing its Summary Report of O&R transactions during the calendar quarter ending December 31, 1997, pursuant to the market based rate power service tariff, made effective by the Commission on March 27, 1997 in Docket No. ER97–1400–000.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

68. Tucson Electric Power Company

[Docket No. ER98–2861–000]

Take notice that on April 30, 1998, Tucson Electric Power Company (Tucson), tendered for filing a Transaction Report regarding power purchases and sales under its Market-Based Power Sales Tariff for Affiliate Sales for quarter ended March 31, 1998.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

69. Public Service Company of New Mexico

[Dockets No. ER98–2862–000]

Take notice that on May 1, 1998, Public Service Company of New Mexico (PNM), submitted for filing revisions and additions to its Open Access Transmission Tariff (Tariff). The Tariff amendments reflect editorial changes, as well as inclusion of certain industry standard definitions. Pro forma System Impact Study and Facility Addition Study agreements have been added to the Tariff as well as a Form of agreement for Short-Term Firm Point-to-Point Transmission Service.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

70. Wisconsin Public Service Corporation

[Docket No. ER98–2863–000]

Take notice that on May 1, 1998, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Wisconsin Public Power Inc., under its Market-Based Rate Tariff, FERC Original Volume No. 10.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

71. New England Power Pool

Docket No. ER98–2864–000]

Take notice that on May 1, 1998, the New England Power Pool Executive Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL), Agreement dated September 1, 1971, as amended, signed by FPL Energy, Inc., (FPL). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Executive Committee states that the Commission's acceptance of FPL's signature page would permit NEPOOL to expand its membership to include FPL. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make FPL a member in NEPOOL. NEPOOL requests an effective date of July 1, 1998, for commencement of participation in NEPOOL by FPL.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

72. Long Island Lighting Company

[Docket No. ER98–2866–000]

Take notice that on May 1, 1998, Long Island Lighting Company (LILCO), filed an Electric Power Service Agreement between LILCO and NGE Generation, Inc., entered into on April 4, 1998.

The Electric Power Service Agreement listed above was entered into under LILCO's Power Sales Umbrella Tariff as reflected in LILCO's amended filing on February 6, 1998 with the Commission in Docket No. OA98–5–000. The February 6, 1998, filing essentially brings LILCO's Power Sales Umbrella Tariff in compliance with the unbundling requirements of the Commission's Order No. 888.

LILCO requests waiver of the Commission's sixty (60) day notice requirements and an effective date of April 4, 1998, for the Electric Power Service Agreement listed above because in accordance with the policy announced in *Prior Notice and Filing Requirements Under Part II of the Federal Power Act*, 64 FERC ¶ 61,139, *clarified and reh'g granted in part and denied in part*, 65 FERC ¶ 61,081 (1993), service will be provided under an umbrella tariff and the Electric Power Service Agreement is being filed either prior to or within thirty (30) days of the commencement of service. LILCO has served copies of this filing on the customer which is a party to the Electric Power Service Agreement and on the New York State Public Service Commission.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

73. Southwestern Electric Power Company

[Docket No. ER98–2871–000]

Take notice that on May 1, 1998, Southwestern Electric Power Company (SWEPCO), submitted for filing information on the collection in formula rates of post-employment benefits other than pensions as directed by the Statement of Financial Accounting Standard No. 106 (SFAS 106), issued by the Financial Accounting Standards Board and the collection in formula rates of other post-employment benefits as directed by SFAS 112.

SWEPCO has served copies of the filing on all of its formula rate customers, the Arkansas Public Service Commission, the Louisiana Public Service Commission and the Public Utility Commission of Texas.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

74. Idaho Power Company

[Docket No. ER98–2875–000]

Take notice that on April 30, 1998, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission an amended filing with regard to its Restated Agreement for the Sale and Purchase of Firm Capacity and Energy with Truckee-Donner Public Utility District.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

75. Ormond Beach Power Generation, L.L.C.

[Docket No. ER98–2878–000]

Take notice that on May 1, 1998, Ormond Beach Power Generation, L.L.C., tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1, authorizing Ormond Beach to make sales at market-based rates. Ormond Beach has requested waiver of the Commission's Regulations to permit an effective date immediately upon this filing.

Ormond Beach Power Generation, L.L.C., intends to sell electric power at wholesale. In transactions where Ormond Beach Power Generation, L.L.C., sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

76. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER98–2882–000]

Take notice that on May 1, 1998, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with Cargill-Alliant L.L.C., and Cinergy Capital & Trading, Inc., under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

77. AES Alamitos, L.L.C.

[Docket No. ER98–2883–000]

Take notice that on May 1, 1998, AES Alamitos, L.L.C., tendered for filing

pursuant to Rule 205, 18 CFR 285.205, a petition for blanket waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 2 (Ancillary Services), to be effective on the date that AES Alamitos, L.L.C., acquires a generating facility.

AES Alamitos, L.L.C., intends to sell ancillary services at wholesale from an electric plant in Alamitos, California, and it proposes to sell four of these services subject to rates, terms and conditions to be negotiated with the buyer. Rate Schedule No. 2 (Ancillary Services) provides for the sale of regulation, spinning reserve, non-spinning reserve, and replacement reserve at prices arranged in the market.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

78. California Independent System Operator Corporation

[Docket Nos. ER98–2899–000]

Take notice that on May 1, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a fully-executed Scheduling Coordinator Agreement, dated March 27, 1998, between the California Department of Water Resources and the ISO for acceptance by the Commission.

The ISO states that the enclosed Scheduling Coordinator Agreement replaces the contract that the ISO filed unilaterally in this proceeding on March 9, 1998. This filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

79. California Independent System Operator Corporation

[Docket No. ER98–2900–000]

Take notice that on April 28, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a fully-executed Meter Service Agreement for ISO Metered Entities, dated April 8, 1998, between the California Department of Water Resources and the ISO for acceptance by the Commission.

The ISO states that the enclosed Meter Service Agreement replaces the contract that the ISO filed unilaterally in this proceeding on March 6, 1998. This filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

80. California Independent System Operator Corporation

[Docket Nos. ER98–2901–000]

Take notice that on May 1, 1998, the California Independent System Operator Corporation (ISO), tendered for filing a fully-executed Meter Service Agreement for Scheduling Coordinators, dated April 8, 1998, between the California Department of Water Resources and the ISO for acceptance by the Commission.

The ISO states that the enclosed Meter Service Agreement replaces the contract that the ISO filed unilaterally in this proceeding on March 9, 1998. This filing has been served on all parties listed on the official service list in the above-referenced docket.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

81. Alliant Services, Inc. Interstate Power Company, Wisconsin Power & Light Co., IES Utilities Inc.

[Docket No. OA98–12–000]

Take notice that on April 29, 1998, Alliant Services, Inc., on behalf of IES Utilities Inc., Interstate Power Company, Wisconsin Power & Light Company and South Beloit Water, Gas & Electric Company, submitted for filing Standards of Conduct in compliance with the Commission's Order Nos. 889 and 889–A and the Commission's regulations at 18 CFR 37.4.

The Public Service Commission of Wisconsin, the Iowa Utilities Board, the Illinois Commerce Commission and the Minnesota Public Service Commission have been served a copy of the Standards of Conduct.

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

82. Rochester Gas and Electric Corporation

[Docket No. ER98–2865–000]

Take notice that on May 1, 1998 Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and the New York Power Authority (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of April 1, 1998, for the New York Power Authority Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

83. Central Wayne Energy Recovery Limited Partnership

[Docket No. QF95–220–002

Take notice that on April 21, 1998, Central Wayne Energy Recovery Limited Partnership, (Applicant), c/o CE Wayne I, Inc., 250 W. Pratt Street, 23 Floor, Baltimore, MD 21201–2423, filed an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

According to the applicant, the small power production facility is located at the Central Wayne County Sanitation Authority's existing municipal solid waste incineration facility in Dearborn Heights, Michigan. A notice of self-certification was filed on April 1, 1998. The Commission previously certified the facility in *Central Wayne Energy Recovery Limited Partnership*, 70 FERC ¶ 62,175 (1995). The instant application for recertification is to reflect certain changes in the upstream ownership of the facility to bring the facility into compliance with the ownership requirements for qualifying small power production facilities prior to the facility's commencement of service.

Comment date: June 1, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 335.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12919 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–556–004, et al.]

Pacific Gas and Electric Company, et al. Electric Rate and Corporate Regulation Filings

May 8, 1998.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Company

[Docket No. ER98–556–004]

Take notice that on April 30, 1998, Pacific Gas and Electric Company (PG&E) tendered for filing a compliance filing in response to the March 31, 1998, Order Clarifying Prior Order and Granting And Denying Requests for Rehearing, and also tendered for filing a motion for clarification for future rate changes for NCPA.

This filing is part of the comprehensive restructuring proposal for the California electric power industry that is being filed with the Commission.

Copies of this filing have been served upon the parties on the service list and the California Public Utilities Commission.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Western Resources, Inc.

[Docket No. ER98–2157–001]

Take notice that on May 1, 1998, Western Resources, Inc., acting on behalf of itself and Kansas Gas and Electric Company (collectively, Western Resources), tendered for filing its Compliance Filing in the above-referenced docket.

Comment date: May 21, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Goodrich Falls Hydroelectric

[Docket No. ER98–2653–000]

Take notice that on April 22, 1998, Goodrich Falls Hydroelectric made a conditional tariff filing in compliance with the Commission's order of February 11, 1998 in *Connecticut Valley Electric Company, Inc.* v. *Wheelabrator Claremont Company, L.P., et al.*, Docket Nos. EL94–10–000, *et al.*, 82 FERC ¶61,116 (1998).

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Franklin Falls Hydroelectric Corporation

[Docket No. ER98–2654–000]

Take notice that on April 22, 1998, Franklin Falls Hydroelectric Corporation made a conditional tariff filing in compliance with the Commission's order of February 11, 1998 in *Connecticut Valley Electric Company, Inc.* v. *Wheelabrator Claremont, L.P., et al.*, Docket Nos. EL94–10–000, *et al.*, 82 FERC ¶61,116(1998).

Comment date: May 20, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Western Resources, Inc.

[Docket No. ER98–2908–000]

Take notice that on May 5, 1998, Western Resources, Inc. (Western Resources), tendered for filing a long-term firm transmission agreement between Western Resources and Western Resources Generation Services. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective May 1, 1998.

Copies of the filing were served upon Western Resources Generation Services and the Kansas Corporation Commission.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Entergy Services, Inc.

[Docket No. ER98–2910–000]

Take notice that on May 5, 1998, Entergy Services, Inc. (Entergy Services), as agent for Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing its 1998 annual rate redetermination update (Update) in accordance with the Open Access Transmission Tariff filed in compliance with FERC Order No. 888 in Docket No. OA96–158–000. Entergy Services states that the Update redetermines the formula rate in accordance with the annual rate redetermination provisions of Appendix 1 to Attachment H and Appendix A to Schedule 7.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Boston Edison Company

[Docket No. ES98–28–000]

Take notice that on April 28, 1998, Boston Edison Company submitted an application, under Section 204 of the Federal Power Act, for authorization to issue short-term debt in an aggregate principal amount not to exceed $350 million, during the period of two years, with an effective date of January 1, 1999.

Comment date: June 5, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Consumers Energy Company

[Docket No. ES98–31–000]

Take notice that on May 1, 1998, Consumers Energy Company filed an application, under Section 204 of the Federal Power Act, seeking authorization to issue secured and/or unsecured long-term securities, from time to time, in an aggregate principal amount of not more than $2.1 billion outstanding at any one time, during the period of July 1, 1998 through June 30, 2000, with final maturities no later than 30 years from the date of issue. Consumers also request a waiver of the Commission's competitive bid/negotiated placement requirements for certain securities to be issued pursuant to authorization requested in this docket.

Comment date: June 10, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12933 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER95–1240–002, et al.]

PacifiCorp, et al. Electric Rate and Corporate Regulation Filings

May 11, 1998.

Take notice that the following filings have been made with the Commission:

1. PacifiCorp

[Docket No. ER95–1240–002]

Take notice that on May 6, 1998, PacifiCorp, tendered for filing in accordance with the Commission's Order in Docket No. ER95–1240–000, dated April 21, 1998, Revised Sheet Nos. 126 through 129 of PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11. This filing revises the rate for positive imbalances under Schedule 4, Energy Imbalance Service.

Copies of this filing were supplied to the Colorado Public Utilities Commission, the Wyoming Public Service Commission, the Arizona Corporation Commission, the California Public Utilities Commission, the Montana Public Service Commission, the Public Utility Commission of Oregon, and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Transmission Function's Bulletin Board System through a personal computer by calling (503) 813–5758 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Sithe New England Holdings LLC

[Docket No. ER98–1943–001]

Take notice that on May 5, 1998, Sithe New England Holdings LLC, tendered for filing with the Federal Energy Regulatory Commission forms of service agreements, on behalf of Sithe Mystic LLC, Sithe Edgar LLC, Sithe New Boston LLC, Sithe Framingham LLC, Sithe West Medway LLC and Sithe Wyman LLC (Project LLCs). The forms of service agreements are being filed in compliance with the Commission's order issued April 20, 1998 in the referenced docket.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Virginia Electric and Power Company

[Docket No. ER98–2134–000]

Take notice that on May 4, 1998, Virginia Electric and Power Company (Virginia Power) tendered for filing an executed version of the Service Agreement for Non-Firm Point-to-Point Transmission Service with Cargill-Alliant, LLC (formerly Cargill Energy Division) which it had filed in unexecuted form on March 10, 1998.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. PECO Energy Company

[Docket No. ER98–2555–000]

Take notice that on May 6, 1998, PECO Energy Company (PECO) filed under Section 205 of the Federal Power Act, an Amendment to its original filing on April 16, 1998, of an Agreement dated February 27, 1998, with Citizens Power Sales (CP SALES) under PECO's FERC Electric Tariff Original Volume No. 1. PECO requests an effective date of April 1, 1998, for the Agreement.

PECO states that copies of this filing have been supplied to CP SALES and to the Pennsylvania Public Utility Commission.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. Idaho Power Company

[Docket No. ER98–2911–000]

Take notice that on May 6, 1998, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company's FERC Electric Tariff No. 6, Market Rate Power Sales Tariff, between Idaho Power Company and Utah Municipal Power Agency, Snohomish County PUD No. 1, Eugene Water & Electric Board, LG&E Energy Marketing, Inc., City of Colton, Power Company of America, Grays Harbor County PUD No. 1, Avista Energy, Inc., Pacific Northwest Generating Cooperative, and Tri-State Generation & Transmission Assn., Inc.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. PP&L, Inc.

[Docket No. ER98–2913–000]

Take notice that on May 6, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated April 24, 1998 with American Municipal Power—Ohio (AMP) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds AMP as an eligible customer under the Tariff.

PP&L requests an effective date of May 6, 1998 for the Service Agreement.

PP&L states that copies of this filing have been supplied to AMP and to the Pennsylvania Public Utility Commission.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Public Service Corporation

[Docket No. ER98–2914–000]

Take notice that on May 6, 1998, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Commonwealth Edison Co. under its Market-Based Rate Tariff.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Public Service Corporation

[Docket No. ER98–2915–000]

Take notice that on May 6, 1998, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Otter Tail Power Company under its Market-Based Rate Tariff.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Kandiyohi Cooperative Electric Power Association

[Docket No. ER98–2916–000]

Take notice that on May 6, 1998, Kandiyohi Cooperative Electric Power Association (Kandiyohi Cooperative) submitted for filing an Electric Service Agreement between Kandiyohi Cooperative and City of Kandiyohi, pursuant to section 205 of the Federal Power Act, and § 35.12 of the Regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 35.12. Kandiyohi Cooperative's filing is available for public inspection at its offices in Willmar, Minnesota.

Kandiyohi Cooperative requests that the Commission accept the Electric Service Agreement with an effective date of May 21, 1998.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. American Electric Power Service Corporation

[Docket No. ER98–2917–000]

Take notice that on May 6, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing executed service agreements under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997, and has been designated AEP Operating Companies' FERC Electric

Tariff Original Volume No. 5. AEPCS respectfully requests waiver of notice to permit the service agreements to be made effective for service billed on and after April 15, 1998.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Energy PM, Inc.

[Docket No. ER98–2918–000]

Take notice that on May 6, 1998, pursuant to Rules 205 and 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.205 and 18 CFR 385.207, Energy PM, Inc. (Energy PM) filed a petition for waivers, blanket approvals and an order approving its Rate Schedule No. 1, to be effective within sixty (60) days of the date of filing or on the date of the Commission's Acceptance Letter, whichever is earlier.

Energy PM, a subsidiary of Indeck Energy Services, Inc., intends to engage in the marketing of electric energy and capacity. In such transactions, Energy PM will purchase energy and capacity from electric utilities, qualified facilities and independent power producers and resell such energy and capacity to other purchasers. The rates charged by Energy PM will be mutually agreed upon by the parties to each particular transaction.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER98–2927–000]

Take notice that on May 6, 1998, Boston Edison Company (Boston Edison) filed executed amendments to its contracts with thirteen municipal customers of its Pilgrim Nuclear Power Station. These executed contract amendments are substitutions for the thirteen unexecuted amendments accepted for filing by letter order issued February 25, 1998 in Docket No. ER98–1389-000. Except for the execution of the amendments, this filing makes no changes to the respective rate schedules. Boston Edison requests that the executed contracts be effective as of March 13, 1998, the date the Commission allowed the unexecuted amendments to become effective.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER98–2928–000]

Take notice that on May 4, 1998, Virginia Electric and Power Company (Virginia Power) tendered for filing an executed version of the Service Agreement for Firm Point-to-Point Transmission Service with Cargill-Alliant, LLC (formerly Cargill Energy Division) which it had filed in unexecuted form on March 10, 1998.

Comment date: May 26, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Central Illinois Light Company

[Docket No. ES98–29–000]

Take notice that on April 30, 1998, Central Illinois Light Company (Applicant) filed an application with the Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue from time to time, during the period July 1, 1998 through June 30, 2000, short-term debt obligations in an aggregate principal amount not exceeding $100,000,000 outstanding at any time with final maturities of not later than June 30, 2001.

Comment date: June 8, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–13003 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Georgia Power Company; Notice of Availability of Environmental Assessment

May 11, 1998.

A environmental assessment (EA) is available for public review. The EA was prepared for an application filed by Georgia Power Company, licensee for the Sinclair Hydroelectric Project. In its application, the licensee requests Commission approval to grant a permit to a private developer to construct a small, commercial marina on Lake Sinclair, the project reservoir. The proposed marina would be located near the confluence of Sandy Run Creek and the Oconee River in Hancock County, Georgia.

Based on the environmental analyses presented in the EA, the Commission's staff finds that, with the developer's proposed mitigative measures, the marina development would not be a major federal action significantly affecting the quality of the human environment.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA may be obtained by calling the Commission's public reference room at (202) 208–1371.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12925 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a New License

a. *Type of filing:* Notice of Intent to File An Application For a New License.

b. *Project No.:* 2180.

c. *Date filed:* April 24, 1998.

d. *Submitted By:* Tenneco Packaging, parent company of PCA Hydro, Inc., current licensee.

e. *Name of Project:* Grandmother Falls Project.

f. *Location:* On the Wisconsin River, near the City of Tomahawk, in Lincoln County, Wisconsin.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of current license:* September 1, 1977.

i. *Expiration date of current license:* June 30, 2003.

j. *The project consists of:* (1) a 34-foot-high, 450-foot-long concrete gravity dam comprising (a) a 100-foot-long nonoverflow section, and (b) a 236-foot-long gated section containing eight 19-foot by 26-foot Taintor gates; (2) a 250-foot-long earthen dike; (3) a 758-acre reservoir at normal pool elevation of 1,419.3 feet U.S.G.S.; (4) an integral powerhouse containing three generating units with a total installed capacity of 3,000 kW; (5) a 5.5-mile-long, 44-kV transmission line; and (6) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Tenneco Packaging, N9090 County Road E, Tomahawk, WI 54487, (715) 453–2131.

l. *FERC contact:* Tom Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.9 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by June 30, 2001.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12926 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM93–11–000]

Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992; Notice of Annual Change in the Producer Price Index for Finished Goods, Minus One Percent

May 11, 1998.

The Commission's regulations include a methodology for oil pipelines to change their rates through use of an index system that establishes ceiling levels for such rates. The index system as set forth at 18 CFR 342.3 is based on the annual change in the Producer Price Index for Finished Goods (PPI–FG), minus one percent. The regulations provide that each year the Commission will publish an index reflecting the final change in the PPI–FG, minus one percent, after the final PPI–FG is made available by the Bureau of Labor Statistics in May of each calendar year.

The annual average PPI–FG index figure for 1996 was 131.3 and the annual average PPI–FG index figure for 1997 was 131.8.[1] Thus, the percent change (expressed as a decimal) in the annual average PPI–FG from 1996 to 1997, minus one percent, is a negative .006192.[2] Oil pipelines must multiply their July 1, 1997—June 30, 1998 rate ceiling levels by 0.993808 to compute their rate ceiling levels for the period July 1, 1998, through June 30, 1999, in accordance with 18 CFR 342.3(d).

To obtain July 1, 1998—June 30, 1999 ceiling levels, pipelines must first calculate their ceiling levels for the January 1, 1995—June 30, 1995 index period, by multiplying their December 31, 1994 rates by 1.002175. Pipelines must then multiply those ceiling levels by 0.996415 to obtain the July 1, 1995—June 30, 1996 ceiling levels, multiply the July 1, 1995—June 30, 1996 ceiling levels by 1.009124 to obtain the July 1, 1996—June 30, 1997 ceiling levels and multiply the July 1, 1996–June 30, 1997 ceiling levels by 1.016583 to obtain the July 1, 1997—June 30, 1998 ceiling levels. Finally, pipelines must multiply the July 1, 1997—June 30, 1998 ceiling levels by 0.993808 to obtain the July 1, 1998—June 30, 1999 ceiling levels. See Explorer Pipeline Company, 71 FERC ¶ 61,416 at n.6 (1995) for an explanation of how ceiling levels must be calculated.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–12930 Filed 5–14–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100138; FRL–5774–9]

Geologics Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Geologics Corporation has been awarded a contract to perform work for the EPA Office of Enforcement and Compliance Assurance, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Geologics Corporation consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable Geologics to fulfill the obligations of the contract.

DATES: Geologics Corporation will be given access to this information no sooner than May 20, 1998.

FOR FURTHER INFORMATION CONTACT: By mail: C. Jean Sadlowe, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 230, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5362; e-mail: sadlowe.jean@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–D4–0024, Geologics Corporation will perform reviews of production data for pesticide producing establishments and annual pesticide production reports in support of program activities, and to provide related technical support to the Office of Enforcement and Compliance Assurance in the development of alternative training methods for the Section Seven Tracking System (SSTS). Geologics Corporation will require read only access to the system under the terms of this contract. This contract involves no subcontractors.

The Office of Enforcement and Compliance Assurance and Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Geologics Corporation, prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release

[1] The final figures for the annual average PPI–FG is published by the Bureau of Labor Statistics in mid-May of each year. This figure is publicly available from the Division of Industrial Prices and Prices Indexes of the Bureau of Labor Statistics, at (202) 606–7705, and is available in print in August in Table 1 of the annual data supplement to the BLS publication *Producer Price Indexes.*

[2] [131.8—131.3]/131.3=.003808 – .01= – .006192.

and to handle it in accordance with the FIFRA Information Security Manual. In addition, Geologics Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officers for this contract in the EPA Office of Enforcement and Compliance Assurance.

All information supplied to Geologics Corporation by EPA for use in connection with this contract will be returned to EPA when Geologics Corporation has completed its work.

List of Subjects

Environmental protection, Transfer of data.

Dated: May 7, 1998.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–12855 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5491–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 27, 1998 Through May 01, 1998 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1998 (63 FR 17856).

Draft EISs

ERP No. D–COE–E35084–NC Rating EO2, Randleman Lake and Dam Project, Construction, Piedmont Triad Regional Water Authority (PTRWA), Deep River, Guilford and Randolph Counties, NC.

Summary: EPA expressed environmental objection to the proposed water supply reservoir, because hazardous materials present in the groundwater would potentially contaminate this water with chlorinated solvents and the abandoned Seaboard Chemical Plant would be situated in the reservoir pool and buffer zone. These sites are undergoing remediation studies by the North Carolina DEHNR. EPA requested that the COE grant its Section 404 permit only on condition that DEHNR guarantee that the Lake would be suitable for its intended purpose, ie., water supply; and that any on-going remediation studies be completed prior to construction.

ERP No. D–COE–E36176–FL Rating EC2, C–51 West End Flood Control Project, Implementation To Improve the Level of Flood Control, Central and Southern Florida Project, Palm Beach County, FL.

Summary: EPA expressed environmental concern about the efficacy of the proposed stormwater treatment area, as well as the potential long-term environmental consequences of this proposal. EPA suggested that additional data needs to be collected/evaluated to determine the significance of these issues.

ERP No. D–COE–K36123–CA Rating EC2, South Sacramento County Streams Investigation, Proposed to Increase Flood Protection, Non-Federal Sponsor, Sacramento Waste Water Treatment Plant and along portions of Morrison, Elder, Unionhouse and Florin Creeks, Sacramento County, CA.

Summary: EPA expressed environmental concerns regarding air quality mitigation, which may be required by the Corps' upcoming conformity determination, reflected in the draft EIS. EPA urged the Corps to finalize the project's conformity review prior to completion of the final EIS. EPA also expressed concern that the draft EIS did not discuss potential cumulative impacts to the Morrison Creek watershed, particularly impacts associated with sand and gravel mining that is subject to Corps regulatory jurisdiction under the Clean Water Act Section 404. EPA is concerned that the draft EIS did not address pollution prevention mechanisms to the extent recommended in guidance to Federal agencies by the Council on Environmental Quality.

ERP No. D–FRC–B03006–00 Rating EO2, Portland Natural Gas Transmission System (PNCTS)/Maritimes Phase I Joint Facilities Project, NPDES Permit, COE Section 10 and 404 Permits, Dracut, MA; Wells, ME and NH.

Summary: EPA expressed environmental objections to the pipeline proposal from the standpoint of growth inducing impacts and the absence of a planning policy and decision-making process (or guidance) for the evaluation of proposed tie-ins to the pipeline. EPA requested additional information concerning impacts to wetlands containing significant amphibian breeding habitat and impacts of the pipeline to existing and potential wellhead protection areas. EPA also questioned FERC's rationale for analyzing the Phase I Joint Facilities project independent of the other portions of a larger pipeline facility throughout New England.

Final EISs

ERP No. F–BLM–G67003–NM, Little Rock Open-Pit Mine Project, Construction and Operation, Plan of Operations Approval, and several Permits Issuance, Grant County, NM.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory.

ERP No. F–DOA–G31002–TX, Bexar-Medina-Atascosa Counties Water Conservation Plan, Renovation and Installation, Funding, Medina Lake, Bexar, Medina and Atascosa Counties, TX.

Summary: Review of the Final EIS has been completed and the project found to be satisfactory.

ERP No. F–FHW–B59000–RI, Newport Marine Facilities Project, To Develop the Marine Mode of the Intermodal Gateway Transportation Center, Selected siting in various locations within the City of Newport, Towns of Middletown and Portsmouth, Funding, COE Section 404 Permit and US Coast Guard Permit, Aquidreck Island, RI.

Summary: EPA had no additional comments regarding the proposed action.

ERP No. F–FRC–B05184–ME, Lower Penobscot River Basin Hydroelectric Project, Application for Licensing for three hydroelectric project: Basin Mills (FERC. NO. 10981), Stillwater (FERC. No. 2712) and Milford (FERC. No. 2534), Penobscot County, ME.

Summary: EPA supported the FERC staff's recommendation not to construct the Basin Mills dam and believes that the staff recommendation is an appropriate outcome to the NEPA process given the serious direct, indirect and commutative environmental impacts associated with dam construction and the inconsistency of the proposal with the public interest and state and federal regulations. Additionally, EPA agreed with FERC staff recommendations to implement various mitigation proposals for the Veazie, Orono, Milford and Stillwater projects.

ERP No. F–FRC–B05189–ME, Kennebec River Basin Hydroelectric

Projects, Changes in Operations and Minor Construction, Licensing of 11 Hydroelectric Projects, (FERC Project Nos. 2671, 2555, 2613, 2556, 2329, 2557, 2325, 2559, 11433, 2552 and 2389), Kennebec, Somerset and Piscataquis Counties, ME.

Summary: EPA supported the FERC staff's recommendation to retire the Edwards project and remove the dam. EPA continued to disagree, however, with FERC's interpretation of the baseline condition, the approach to a specific Clean Water Act Section 401 issue, and the scope of analysis of the EIS.

ERP No. F–FRC–B08003–ME, Granite State Gas Transmission, Construction and Operation of a Liquefied Natural Gas Facility, Permits and Approvals, In the Town of Wells, York County, ME.

Summary: EPA had no objection to the proposed project, EPA did raise concerns regarding potential impacts to wildlife habitat, design of the groundwater monitoring program, and the range of alternatives considered in the FEIS.

Dated: May 12, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–13024 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5491–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153. Weekly receipt of Environmental Impact Statements Filed May 04, 1998 Through May 08, 1998. Pursuant to 40 CFR 1506.9.

EIS No. 980148, Final EIS, USN, CA, Naval Medical Center Oakland, Disposal and Reuse, Implementation, in the City of Oakland, Alameda County, CA, Due: June 01, 1998, Contact: Gary Munekawa (650) 244–3022.

This EIS was inadvertently omitted from the 05–01–98 **Federal Register**. The official 30 days NEPA review period is calculated from 05–01–98.

EIS No. 980162, Final Supplement, APH, Logs, Lumber and Other Unmanufactured Wood Articles Importation, Improvements to the existing system to Prohibit Introduction of Plant Pests into the United States, Due: June 15, 1998, Contact: Jack Edmundson (301) 734–8565.

EIS No. 980163, Final EIS, USN, NV, Fallon Naval Air Station (NAS) Range Training Complex, Withdrawal of Federally Administered Public Lands for Range Safety and Training Purposes, Great Basin, City of Fallon, Churchill County, NV, Due: June 15, 1998, Contact: Sam Dennis (650) 244–3007.

EIS No. 980164, Draft EIS, FHW, WA, Cross-Base Highway Project, New Roadway Construction between I–5 at the Thorne Lane Interchange and WA–7 at 176th Street South, Major Investment Study (MIS), COE Section 404 Permit, Pierce County, WA, Due: June 29, 1998, Contact: Jim Leonard (360) 753–9408.

EIS No. 980165, Final EIS, COE, CA, South Sacramento County Streams Investigation, Proposed to Increase Flood Protection, Non-Federal Sponsor, Sacramento Waste Water Treatment Plant and along portions of Morrison, Elder, Unionhouse and Florin Creeks, Sacramento County, CA, Due: June 15, 1998, Contact: Jane Rinck (916) 557–6715.

EIS No. 980166, Draft EIS, NPS, UT, Capitol Reef National Park, Implementation, General Management Plan, Development Concept Plan, Emery, Garfield, Sevier and Wayne Counties, UT, Due: July 01, 1998, Contact: Charles V. Lundy (435) 425–3791.

EIS No. 980167, Final EIS, FHW, WV, Merrick Creek Connector Improvements Project, between US 60 to WV–2 also a New Interchange at I–64, Funding and COE Section 404 Permit, Cabell County, WV, Due: June 19, 1998, Contact: David E. Bender (304) 347–5928.

EIS No. 980168, Draft EIS, FHW, NM, I–25/I–40 Interchange and Adjacent Sections of I–25 and I–40, Dr. Martin Luther King, Jr. Avenue to Comache Road and Carlise Boulevard to South Street, Reconstruction, Funding and Right-of-Way Acquisition, Bernalillo County, NM, Due: June 29, 1998, Contact: Geg Rawling (505) 820–2022.

EIS No. 980169, Draft EIS, AFS, WA, Plum Creek Checkerboard Access Project, To Grant Permanent Easements, Cle Elum and Naches Ranger Districts, Wenatchee National Forest, Kittitas County, WA, Due: June 29, 1998, Contact: Floyd Rogalski (509) 674–4411.

EIS No. 980170, Draft EIS, USN, MD, VA, DE, Patuxent River Complex Project, Increased Flight and Related Ground Operations in Test Area, Naval Air Warfare Center Aircraft Division (NAWCAD) Chesapeake Bay, Patuxent River, Several Counties, MD, DE and VA, Due: June 29, 1998, Contact: Sue Evans (888) 276–5201.

EIS No. 980171, Draft EIS, COE, TX, Dallas Floodway Extension, Flood Damage Reduction and Environmental Restoration, Trinity River Basin, Dallas County, TX, Due: June 29, 1998, Contact: Gene T. Rice, Jr. (817) 978–2110.

EIS No. 980172, Final Supplement, COE, CA, Sacramento River Bank Protection Project, Implementation of Streambank Protection for the Lower American River between RM–0 and 13.7, Updated Information, City of Sacramento, Sacramento County, CA, Due: June 15, 1998, Contact: Matt Davis (916) 557–6708.

EIS No. 980173, Final EIS, COE, CA, San Pedro Creek Section 205 Flood Control Project, Construction, Flood Protection, COE Section 10 and 404 Permits and Permits Approval, San Mateo County, CA, Due: June 15, 1998, Contact: Scott Holmes (415) 977–8670.

EIS No. 980174, Final EIS, FAA, MN, Dual Track Airport Planning Process, Construction and Expansion, Minneapolis-St. Paul International Airport, Twin Cities, Hennepin and Dakota Counties, MN, Due: June 15, 1998, Contact: Glen Orcutt (612) 713–4354.

EIS No. 980175, Final EIS, FHW, CA, CA–37 Highway Improvement, Napa River Bridge to the existing Freeway Section of CA–37 that begins near Diablo Street, Funding and US Army COE Section 404 Permit Issuance, Vallejo, Solano County, CA, Due: June 15, 1998, Contact: John R. Schultz (916) 498–5041.

EIS No. 980176, Draft EIS, FHW, MD, US–301 Transportation Study, Improvements from US 301 North of US 301/MD–5 Interchange at T.B. (Thomas Brooke) near Brandywine to US 50 in Bowie, Northern Corridor Tier I, Prince George's County, MD, Due: June 30, 1998, Contact: George Frick (410) 962–4440.

EIS No. 980177, Draft EIS, DOE, NM, Los Alamos National Laboratory Continued Operation Site-Wide, Implementation, Los Alamos County, NM, Due: July 18, 1998, Contact: Corey Cruz (800) 898–6623.

Dated: May 12, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–13027 Filed 5–14–98; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:01 a.m. on Tuesday, May 12, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Director Joseph H. Neely (Appointive), seconded by Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: May 12, 1998.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 98–13134 Filed 5–13–98; 3:05 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1209–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia, (FEMA–1209–DR), dated March 11, 1998, and related determinations.

EFFECTIVE DATE: May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Georgia, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 11, 1998:

Gordon County for Public Assistance (already designated for Individual Assistance).
Columbia, Peach, and Rockdale Counties for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–12972 Filed 5–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1216–DR]

Kentucky; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–1216–DR), dated April 29, 1998, and related determinations.

EFFECTIVE DATE: April 29, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated April 29, 1998, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the Commonwealth of Kentucky, resulting from severe storms, tornadoes, and flooding on April 16, 1998, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, P.L. 93–288 as amended, ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the Commonwealth of Kentucky.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance, Public Assistance, and Hazard Mitigation in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David P. Grier, IV of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Commonwealth of Kentucky to have been affected adversely by this declared major disaster:

Adair, Barren, Bell, Casey, Clay, Floyd, Knott, Knox, Metcalfe, Perry, Warren, and Whitley Counties for Individual Assistance.
Adair, Barren, Clay, Floyd, Knott, Knox, Leslie, Metcalfe, Owsley, Perry, Warren and Whitley counties for Public Assistance.

All counties within the Commonwealth of Kentucky are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

James L. Witt,

Director.

[FR Doc. 98–12974 Filed 5–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1215–DR]

Tennessee; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee (FEMA–1215–DR), dated April 20, 1998, and related determinations.

EFFECTIVE DATE: May 4, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Tennessee, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 20, 1998:

Gibson County for Individual Assistance.
Humphreys and Scott Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–12973 Filed 5–14–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. 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 June 1, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. The First National Bank of Waverly Employee Stock Ownership Plan, Waverly, Iowa; to retain 11.48 percent of the voting shares of First of Waverly Corporation, Waverly, Iowa, and thereby indirectly retain voting shares of The First National Bank of Waverly, Waverly, Iowa.

Board of Governors of the Federal Reserve System, May 12, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13032 Filed 5–14–98; 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. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 8, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Premier Financial Bancorp, Inc., Georgetown, Kentucky; to acquire 100 percent of the voting shares of Boone County Bank, Inc., Madison, West Virginia (in organization), a *de novo* bank.

2. Premier Financial Bancorp, Inc., Georgetown, Kentucky; to acquire 100 percent of the voting shares of The Bank of Philippi, Inc., Philippi, West Virginia (in organization), a *de novo* bank.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. N.A. Corporation, Roseville, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of North American Banking Company, Roseville, Minnesota, a *de novo* bank.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Sterling Bancshares, Inc., Houston, Texas; to acquire 100 percent of the voting shares of Humble National Bank, Humble, Texas. Comments regarding this application must be received not later than June 3, 1998.

Board of Governors of the Federal Reserve System, May 11, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–12937 Filed 5–14–98; 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. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 11, 1998.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Salisbury Bancorp, Inc., Lakeville, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Salisbury Bank and Trust Company, Lakeville, Connecticut.

B. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Travelers Group Inc., New York, New York (Travelers), to become a bank holding company by acquiring Citicorp, New York, New York, and thereby indirectly acquiring Citibank, N.A., New York, New York; Universal Bank, N.A., Columbus, Georgia; Citibank (New York State), Perinton, New York; Citicorp Holdings, Inc., New Castle, Delaware; Citibank Delaware, New Castle, Delaware; Citibank (Nevada), N.A., Las Vegas, Nevada; and Citibank (South Dakota), N.A., Sioux Falls, South Dakota. Upon consummation of the proposed transaction, Travelers would be renamed Citigroup Inc.. Travelers also may form one or more intermediate bank holding companies.

In connection with the proposed transaction, Travelers also has provided notice to acquire all of the nonbank subsidiaries of Citicorp and to engage, directly or indirectly through the nonbank subsidiaries of Travelers and Citicorp, in a variety of nonbanking activities that have been previously determined to be permissible for bank holding companies. These nonbanking activities and companies are described in the notice filed with the Board. They include the following: operating savings associations through Citibank, Federal Savings Bank, San Francisco, California, and Travelers Bank & Trust, F.S.B., Newark, Delaware, pursuant to § 225.28(b)(4)(iii) of Regulation Y; operating industrial loan companies through Universal Financial Corp., Salt Lake City, Utah, and Commercial Credit Corporation (Hawaii), Honolulu, Hawaii, pursuant to § 225.28(b)(4)(i) of Regulation Y; and engaging in lending activities through The Travelers Bank USA, Newark, Delaware, pursuant to § 225.28(b)(1) of Regulation Y. In addition, Travelers proposes to engage, directly or indirectly through any of its nonbank subsidiaries, in each of the other activities authorized for bank holding companies under 12 CFR 225.28(b), other than certain very limited exceptions, and in all activities that Citicorp currently is authorized by Board Order to conduct. Travelers also proposes to engage through Citicorp Securities, Inc., New York, New York, Salomon Brothers Inc., New York, New York, Smith Barney Inc., New York, New York, and The Robinson-Humphrey Company LLC, Atlanta, Georgia, in a limited amount of underwriting and dealing in all types of debt and equity securities (other than ownership interests in open-end investment companies), in accordance with previous Board decisions. In addition, Travelers proposes to engage, directly or indirectly through its subsidiaries, in certain other activities that the Board previously has approved by Order, including providing administrative services to open-end and closed-end investment companies, acting as a commodity pool operator, providing real estate title abstracting services, providing credit card authorization and lost or stolen credit card reporting services, transmitting money for U.S. customers to third parties located in foreign countries, issuing and selling drafts and wire transfers payable in foreign currencies, and cashing U.S. dollar payroll checks drawn on unaffiliated banks.

Travelers currently engages in and controls companies that engage in activities, or hold investments, that are not authorized for bank holding companies under section 4 of the BHC Act. These activities include certain insurance underwriting activities, insurance agency activities, commodities activities, investment activities, and other activities more fully described in the notice. Travelers proposes to conform each of these activities and investments to the requirements of the BHC Act, including by divestiture or by termination of such activities, within two years of becoming a bank holding company, or such longer period as the Board may grant, in accordance with the limitations and requirements of section 4(a)(2) of the BHC Act. Prior to consummation of the proposed transaction, Travelers proposes to cease sponsoring, organizing, or distributing shares of any open-end investment company. Comments regarding this application must be received not later than June 16, 1998.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Great Southern Bancorp, Inc., Springfield, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Great Southern Bank, Springfield, Missouri. Great Southern Bank currently operates as Great Southern Bank, F.S.B.

In connection with this application, Applicant also has applied to acquire Great Southern Capital Management, Inc., Springfield, Missouri, and thereby engage in the activity of providing discount securities brokerage services and related investment advisory services, pursuant to § 225.28(b)(7)(i) of the Board's Regulation Y.

D. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. First National Bank at St. James ESOP, St. James, Minnesota; to acquire an additional 1.64 percent, for a total of 24.23 percent, of the voting shares of First National Agency at St. James, St. James, Minnesota, and thereby indirectly acquire First National Bank at St. James, St. James, Minnesota.

2. Freedom Bancshares, Inc., La Crosse, Wisconsin; to become a bank holding company by acquiring at least 80 percent of the voting shares of Park Bank, Holmen, Wisconsin.

Board of Governors of the Federal Reserve System, May 12, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13033 Filed 5–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 98-10993) published on page 20410 of the issue for Friday, April 24, 1998.

Under the Federal Reserve Bank of New York heading, the entry for K&Z Company LLC, Brooklyn, 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. The K&Z Company LLC, Brooklyn, New York; to become a bank holding company by acquiring at least 51 percent, but no more than 75 percent, of the voting shares of The Upstate National Bank, Rochester, New York (formerly known as The First National Bank of Lisbon, Rochester, New York).

Comments on this application must be received by May 21, 1998.

Board of Governors of the Federal Reserve System, May 12, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–13034 Filed 5–14–98; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0118]

Clearance Request Entitled Standard Form 94, Statement of Witness

AGENCY: Federal Vehicle Policy Division, GSA.

ACTION: Notice of request for an extension to an existing OMB clearance (3090–0118).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Standard Form 94, Statement of Witness.

DATES: Comment Due Date: July 14, 1998.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Majorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Michael Moses, Federal Vehicle Policy Division (202) 501–2507.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0118, concerning Standard Form 94, Statement of Witness. This form is used by all Federal agencies to report accident information involving U.S. Government vehicles.

B. Annual Reporting Burden

Respondents: 816; annual responses: 1; average hours per response: .20; burden hours: 272.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquistion Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–3822, or by faxing your request to (202) 501–3341.

Dated: May 7, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–13020 Filed 5–14–98; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98066]

A Model Hearing Conservation Program for Coal Miners; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1998 funds for a cooperative agreement program for A Model Hearing Conservation Program for Coal Miners. This program addresses the "Healthy People 2000" priority area of Occupational Safety and Health.

The purpose of the program is to demonstrate the effectiveness of a model hearing conservation program (HCP) in the prevention of occupational noise-induced hearing loss among coal miners.

When the Coal Mine Health and Safety Act of 1969, the predecessor to the present Federal Mine Health and Safety Act, was enacted, it was already recognized that the high noise levels generated by mining machines posed a serious threat to the health of miners. In 1976, NIOSH published the results of a cross-sectional survey of hearing levels which confirmed the severity of hearing loss among coal miners. The study found that over 70 percent of coal miners had a hearing impairment by the time they retired. In recognition of the extensive hearing loss among miners, regulations were adopted to limit the overexposure of miners to harmful noise, and a program of research to develop engineering controls to reduce the noise levels of mining equipment was initiated. A recent analysis of a large audiometric data base on coal miners has revealed that the majority of coal miners are still losing their hearing. Over 90 percent of the miners who retired around 1990 had experienced a high frequency hearing loss. This finding can only be explained by the failure of the mining community to pursue a systematic plan of intervention over the last 20 years; such a plan would also have included a mechanism to continuously evaluate the impact of the intervention activities.

The Mine Safety and Health Administration is addressing this situation through new rulemaking. The proposed regulations would require that operators use engineering and administrative controls and provide audiometric tests when a miner's noise exposure exceeds the Permissible Exposure Limit. Although these new regulations can have a positive impact, the elimination of hearing loss as a disease among coal miners can only be realized through the collaborative efforts of labor, management, and government in adopting and supporting comprehensive HCP's.

This program is focused on designing a model HCP for coal miners which incorporates the best practices of well-run programs in other industries, implementing the program at a cooperating underground coal mine, and evaluating it over a 5-year period to demonstrate its efficacy in preventing hearing loss. An effective HCP should include the following critical elements: measurement of worker noise exposure and noise sources, intervention strategies to reduce noise exposures, periodic audiometric evaluations, educational and motivational programs, record keeping, and monitoring to assess effectiveness of program elements. Project results, in combination with other research, will support the implementation of HCP's by providing workshops and recommendations to the mining industry and preparing publications and recommendations to the scientific community.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit and for-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and for-profit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal

governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $275,000 is available in FY 1998 to fund one award. It is expected that the award will begin on or about September 30, 1998, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities) and CDC/NIOSH will be responsible for the activities under B. (CDC/NIOSH).

A. Recipient Activities

1. Prepare study protocol and obtain required approvals. The protocol should include the methodology to be used in developing and evaluating the HCP, technical activities to implement the HCP, data to be collected, and proposed analyses of the data. Present the protocol to a panel of scientific reviewers (if required) and revise the protocol as required for final approval.

2. Implement and manage the HCP with the cooperation of the mine operator and employees.

3. Schedule and conduct worker noise exposure measurements, audiometric testing, and engineering noise control work.

4. Evaluate the effectiveness of the overall HCP, as well as, individual elements of the program, in reducing worker noise exposure levels and preventing hearing loss.

5. Prepare a report summarizing the study methodology, the results of all analyses, and conclusions reached. Report study results in the scientific community via presentations at professional conferences and articles in peer-reviewed journals.

6. Conduct one industry-wide workshop to share the results of this study with the mining industry and to promote the adoption of HCP's by other mines.

B. CDC/NIOSH Activities

1. Provide scientific and technical collaboration for the successful completion of the project.

2. Assist, if necessary, in the measurement, analysis, and evaluation of both worker noise exposures and hearing levels(audiometric data).

3. Assist, if necessary, in the identification of intervention strategies to reduce worker noise exposure levels.

4. Review the results of the study and collaborate, where appropriate, in the preparation and publication of results in peer-reviewed journals.

E. Application Content

Competing Applications

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one inch margins, and unreduced font.

F. Submission and Deadline

Letter of Intent

Your letter of intent (LOI) should include the following information. The LOI must be submitted on or before June 1, 1998, to: Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98066, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, Georgia 30305–2209.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit. On or before July 1, 1998, submit the application to: Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 98066, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, Georgia 30305–2209.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Plan (35%)

The applicant's overall research plan should reflect a comprehensive understanding of all aspects of the cooperative agreement, including the resources and time required for accomplishing the project. The plan should include a commitment from the participating mine, as evidenced by a written agreement, for the mine operator to work collaboratively with labor and government in support of achieving the objectives of the cooperative agreement.

2. Objectives (25%)

a. The applicant should demonstrate a clear and complete understanding of the objectives of the cooperative agreement. This should reflect the applicant's understanding of the problem to be addressed and the purpose of the project. The objectives should be timelined and measurable.

b. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

1. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

2. The proposed justification when representation is limited or absent.

3. A statement as to whether the design of the study is adequate to measure differences when warranted.

4. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

3. Methods (25%)

The study design and methodology for accomplishing the stated objectives should be thorough and sound. The applicant's proposed methodology should demonstrate an understanding of the pertinent literature on hearing conservation programs, including the need for an on-going process to evaluate the impact of the intervention activities to reduce worker noise exposure levels and prevent any significant hearing loss.

4. Evaluation (15%)

The applicant's proposed plans to ensure project activities are carried out on schedule and to evaluate project accomplishments should be identified.

5. Budget (Not Scored)

The budget will be evaluated to the extent that it is reasonable, clearly justified, and consistent with the intended use of funds.

6. Human Subjects (Not Scored)

Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

____YES ____NO

Comments: _____

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. progress reports (annual);
2. financial status report, no more than 90 days after the end of the budget period; and
3. final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, GA 30305–2209.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I (in the application kit).

AR98–1—Human Subjects Requirements
AR98–2—Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–7—Executive Order 12372 Review
AR98–9—Paperwork Reduction Act Requirements
AR98–10—Smoke-Free Workplace Requirements
AR98–11—Healthy People 2000
AR98–12—Lobbying Restrictions
AR98–14—Accounting System Requirements

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, Sections 301(a) and 311, [42 U.S.C. 241(a) and 243], as amended, and Section 21, [29 U.S.C. 670] of the Occupational Safety and Health Act of 1970. The Catalog of Federal Domestic Assistance number is 93.262 for the National Institute for Occupational Safety and Health (NIOSH) in CDC.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888-GRANTS4 (1–888 472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Victoria Sepe, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement [98066], Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., M/S E–13, Atlanta, GA 30305–2209, telephone (404) 842–6804, Email address vxw1@cdc.gov.

For program technical assistance, contact J. Alton Burks, Sc.D., Hearing Loss Prevention Branch, Pittsburgh Research Laboratory, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention(CDC), P.O. Box 18070, Pittsburgh, PA 15236, Telephone (412) 892-6484, Internet: aib5@cdc.gov.

Also, the CDC home page on the Internet: *http://www.cdc.gov* is available for copies of this Announcement and funding documents.

Dated: May 8, 1998.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers For Disease Control and Prevention (CDC).

[FR Doc. 98–12935 Filed 5–14–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Child Care and Development Fund Annual Report on (ACF–700).

OMB No.: 0980–0241.

Description: The Child Care and Development Fund (CCDF) Report request annual tribal aggregate information on services provide through the CCDF which is required per Child Care and Development Block Grant (CCDBG) Final Rule 45 CFR Parts 98 and 99. Tribes are required to submit annual aggregate data appropriate to tribal programs on children and families receiving CCDF-funds or CCDBG funded Child care services. The Statute and regulations require Tribal Lead Agencies to report a supplemental narrative which describes general child care activities and actions in the Tribal Lead Agency's service area and is not restricted to the CCDF-funded activities's other information in addition to the data collected by Form ACF–700. This information will be included in the Secretary's report to Congress, as appropriate, and will be shared with all Tribal Lead Agencies to inform them of CCDF or CCDBG-funded activities in other tribal programs.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
CCDF Annual Report	244	1	40	9,760

Estimated total annual burden hours: 9,760.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c)

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 within 60 days of this publication.

Dated: May 11, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–12914 Filed 5–14–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No: CB 98–03]

Announcement of the Availability of Financial Assistance and Request for Applications for Fiscal Year 1998 to Support Child Welfare Training Projects as Authorized by Section 426 of the Social Security Act, as Amended. 42 U.S.C. 626, CFDA: 93.648

AGENCY: Children's Bureau, Administration on Children, Youth and Families (ACF/DHHS).

ACTION: Notice of fiscal year 1998 Child Welfare Training Project priorities, availability of financial assistance, and request for applications to support Child Welfare Training Projects as authorized by section 426 of the Social Security Act, as Amended. 42 U.S.C. 626, CFDA: 93.648.

SUMMARY: The Children's Bureau, Administration on Children, Youth and Families, ACF, announces the availability of FY 1998 funds for competing new discretionary grants to public or other non-profit institutions of higher learning for special projects for training of personnel for work in the field of child welfare.

Federal funds for Child Welfare Training Project Priorities are available for: (1) professional education for public child welfare practitioners; (2) training for the frontline public child welfare agency staff in the use of the Statewide Automated Child Welfare Information Systems (SACWIS); and (3) training for child protective and child welfare services staff for collaboration with community-based agencies to provide services to at-risk families to prevent child abuse and neglect.

DEADLINE DATE: The closing time and date for the receipt of applications under this announcement is 4:30 p.m. (Eastern Time Zone), on July 20, 1998. Applications received after 4:30 p.m. of the closing date will be classified as late. Post marks and other similar documents DO NOT establish receipt of an application.

ADDRESSES: *Mailing and Delivery Instructions:* Mailed applications and applications delivered by overnight/express mail services shall be considered as meeting the announced deadline if they are received on or before the deadline receipt date, between the hours of 8:00 a.m. and 4:30 p.m. (Eastern Time Zone) and sent to the Administration on Children, Youth and Families (ACYF) Operations Center, 1225 Jefferson Davis Hwy, Suite 415, Arlington, VA 22202. The telephone number is 1–800–351–2293. Any application received after the deadline time and date will not be considered for competition.

Hand Delivered Applications, Applicant Couriers: If applications hand delivered by applicants or applicant couriers are received on or before the deadline date between the hours of 8:00 a.m. and 4:30 p.m. (Eastern Time Zone) at the Administration on Children, Youth and Families (ACYF) Operations Center, 1225 Jefferson Davis Hwy, Suite 415, Arlington, VA 22202, they shall be considered as meeting the announced deadline.

Electronic Transmissions: ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late Applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mail system. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

Program Announcement Requests: Copies of the program announcement may obtained by contacting the Administration on Children, Youth and Families (ACYF) Operations Center, 1225 Jefferson Davis Hwy, Suite 415, Arlington, VA 22202. The telephone number is 1–800–351–2293. Copies of this announce will be automatically sent to all universities with accredited undergraduate and graduate social work programs. A copy of this program announcement is also located at the Children's Bureau website at http://www.acf.dhhs.gov/program/cb.

SUPPLEMENTARY INFORMATION: Grant awards of FY 1998 funds will be made by September 30, 1998. Under this announcement, approximately $2 million is available for the new awards. The announcement provides information regarding the funding level for each priority area. Applicants should note that the number of grants to be awarded under this program announcement are subject to the availability of funds.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) number of the Child Welfare Training Grants is 93.648.

Dated: May 11, 1998.

James A. Harrell,

Deputy Commissioner Administration on Children, Youth and Families.

[FR Doc. 98–12979 Filed 5–14–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0268]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on FDA's patent term restoration regulations on due diligence petitions for regulatory review period revision.

DATES: Submit written comments on the collection of information by July 14, 1998.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–

305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Patent Term Restoration, Due Diligence Petitions, Filing, Format, and Content of Petitions—Part 60 (21 CFR Part 60) (OMB control number 0910–0233—Extension)

FDA's patent extension activities are conducted under the authority of the Drug Price Competition and Patent Term Restoration Act of 1984 and the Animal Drug and Patent Term Restoration Act of 1988 (35 U.S.C. 156). New human drug, animal drug, human biological, medical device, food additive, or color additive products regulated by FDA must undergo FDA safety, or safety and effectiveness review, before marketing is permitted. Where the product is covered by a patent, part of the patent's term may be consumed during this review, which diminishes the value of the patent. In enacting 35 U.S.C. 156, Congress sought to encourage development of new, safer, and more effective medical and food additive products. It did so by authorizing the U.S. Patent and Trademark Office (PTO) to extend the patent term by a portion of the time during which FDA's safety and effectiveness review prevented marketing of the product. The length of the patent term extension is generally limited to a maximum of 5 years, and is calculated by PTO based on a statutory formula. When a patent holder submits an application for patent term extension to PTO, PTO requests information from FDA, including the length of the regulatory review period for the patented product. If PTO concludes that the product is eligible for patent term extension, FDA publishes a notice which describes the length of the regulatory review period, and the dates used to calculate that period. Interested parties may request, under § 60.24, revision of the length of the regulatory review period, or may petition, under § 60.30, to reduce the regulatory review period by any time where marketing approval was not pursued with "due diligence." The statute defines due diligence as "that degree of attention, continuous directed effort, and timeliness as may reasonably be expected from, and are ordinarily exercised by, a person during a regulatory review period." As provided in § 60.30(c), a due diligence petition "shall set forth sufficient facts, including dates if possible, to merit an investigation by FDA of whether the applicant acted with due diligence." Upon receipt of a due diligence petition, FDA reviews the petition and evaluates whether any change in the regulatory review period is necessary. If so, the corrected regulatory review period is published in the **Federal Register**. A due diligence petitioner not satisfied with FDA's decision regarding the petition may, under § 60.40, request an informal hearing for reconsideration of the due diligence determination. Petitioners are likely to include persons or organizations having knowledge that FDA's marketing permission for that product was not actively pursued throughout the regulatory review period. The information collection for which an extension of approval is being sought is the use of the statutorily created due diligence petition.

Since 1992, five requests for revision of the regulatory review period have been submitted under § 60.24. One regulatory review period has been altered. No due diligence petitions have been submitted to FDA, under § 60.30, and consequently there have been no requests for hearings, under § 60.40, regarding the decisions on such petitions.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
60.24(a)	1	1	1	100	100
60.30	0	0	0	0	0
60.40	0	0	0	0	0

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–12897 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0456]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Conditions for the Use of Narcotic Drugs for Treatment of Narcotic Addiction, Reporting and Recordkeeping Requirements," has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 25, 1997 (62 FR 62773), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (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 0910–0140. The approval expires on April 30, 2001.

Dated: May 7, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–12902 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0287]

Guidance for Industry on Buspirone Hydrochloride Tablets In Vivo Bioequivalence and In Vitro Dissolution Testing; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Buspirone Hydrochloride Tablets In Vivo Bioequivalence and In Vitro Dissolution Testing." This is revision 1 of the guidance. The guidance has been revised to reflect the recent availability of buspirone hydrochloride tablets in 15-milligram dosage forms. Bioequivalence is tested using the highest available dosage of the reference listed drug. The revised guidance also notes the nonlinearity of buspirone at multiple-dosing.

DATES: Written comments on agency guidance documents may be submitted at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm". Submit written requests for single copies of "Buspirone Hydrochloride Tablets In Vivo Bioequivalence and In Vitro Dissolution Testing" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Sikta Pradhan, Center for Drug Evaluation and Research (HFD–652), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5847.

SUPPLEMENTARY INFORMATION: This guidance document is a level 2 guidance document consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on buspirone hydrochloride tablets in vivo bioequivalence and in vitro dissolution testing. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

Interested persons may submit written comments on the guidance at any time to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday

Dated: May 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–12903 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0276]

Guidance for Industry on Standards for the Prompt Review of Efficacy Supplements, Including Priority Efficacy Supplements; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Standards for the Prompt Review of Efficacy Supplements, Including Priority Efficacy Supplements." As required by the Food and Drug Administration Modernization Act of 1997 (Modernization Act), this guidance for industry describes the standards for the prompt review of efficacy supplements. It also is intended to define those efficacy supplements that are eligible for priority review.

DATES: Written comments may be submitted on the guidance document by August 13, 1998. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm, or http://www.fda.gov/cber/guidelines.htm. Submit written comments on this guidance to the Dockets Management Branch (HFD–305), Food and Drug Administration,

12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments are to be identified with the docket number found in brackets in the heading of this document. After the comment period, comments may be submitted to one of the centers at the addresses below.

FOR FURTHER INFORMATION CONTACT:

Joseph P. Griffin, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041, or

Robert A. Yetter, Center for Biologics Evaluation and Research (HFM–10), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–0373.

SUPPLEMENTARY INFORMATION: Section 403(a) of the Modernization Act requires that FDA publish in the **Federal Register** standards for the "prompt review of supplemental applications submitted for approved articles * * *." The legislative history indicates that this provision was directed at certain types of efficacy supplements, i.e., supplemental applications proposing to add a new use of an approved drug to the product labeling.[1] Section 403(b)(3) of the Modernization Act requires that FDA provide guidance to define supplemental applications that are eligible for priority review. This guidance document fulfills both Modernization Act requirements.

Section 101 of the Modernization Act reauthorized for an additional 5 years, with certain technical changes, the user fee program described in the Prescription Drug User Fee Act of 1992. Section 101 of the Modernization Act directed that the user fees authorized by the amendments in that subtitle be dedicated toward expediting the drug development process and the review of human drug applications as set forth in the performance goals identified in letters from the Secretary of Health and Human Services to the chairman of the Committee on Commerce of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate, as set forth in the Congressional Record. The referenced performance goals include standards for the review of efficacy supplements and distinguish between priority and standard supplements. The guidance also defines "priority" for purposes of applying the performance goals.

The guidance document is being issued as a Level 1 guidance consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It is being implemented without prior public comment because the guidance is needed to implement the Modernization Act. However, the agency wishes to solicit comment from the public and is providing a 90-day comment period and establishing a docket for the receipt of comments.

This guidance document represents the agency's current thinking on the standards for the prompt review of efficacy supplements. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance document to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The guidance document and received comments are available for public examination in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–12900 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

[1] See U.S. Congress, Senate Committee on Labor and Human Resources, "Food and Drug Administration Modernization Act of 1997," S. Rept. 105–43 on S. 830, pp. 41–42, 105th Cong., 1st sess., 1 July 1997; and House Committee on Commerce, "Prescription Drug User Fee Authorization and Drug Regulation Act of 1997," H. Rept. 105–310 on H.R. 1411, pp. 63–64, 105th Cong., 1st sess., 7 October 1997.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0100]

Guidance for Industry on Providing Clinical Evidence of Effectiveness for Human Drugs and Biological Products; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Providing Clinical Evidence of Effectiveness for Human Drug and Biological Products." The purpose of this guidance is to clarify what clinical evidence of effectiveness should be provided in new drug applications, biological product license applications, and supplemental applications for new uses of drugs and biologics. The guidance is also intended to fulfill the requirements of certain provisions of the Food and Drug Administration Modernization Act of 1997 (the Modernization Act).

DATES: General comments on agency guidance documents are welcome at any time.

ADDRESSES: An electronic version of this guidance is available via the Internet at http://www.fda.gov/cder/guidance/index.htm and at http://www.fda.gov/cber/guidelines.htm. Submit written comments on this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Joseph P. Griffin, Center for Drug Evaluation and Research (HFD–5), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5400.

SUPPLEMENTARY INFORMATION: The draft guidance for industry entitled "Providing Clinical Evidence of Effectiveness for Human Drug and Biological Products" (the draft guidance) was initially developed as part of an effort to get more information about valid uses of marketed drugs into the labeling of these drugs. Uncertainty on the part of the industry about the evidentiary requirements for demonstrating effectiveness for a supplemental indication was believed to be an obstacle to sponsors submitting applications for supplemental indications. The draft guidance was intended to clarify the amount and types of evidence that could be used to demonstrate effectiveness and thereby facilitate submission of additional supplemental applications. In the **Federal Register** of March 21, 1997 (62 FR 13650), FDA announced the availability of the draft guidance. The notice gave interested persons an opportunity to submit comments by May 20, 1997.

On November 21, 1997, the President signed the Modernization Act (Pub. L. 105–115), which addressed both the standards for providing clinical evidence of effectiveness and the evidentiary requirements for supplemental applications. Section 115 of the Modernization Act amended the definition of substantial evidence in section 505(d) of the Federal Food,

Drug, and Cosmetic Act (the act) (21 U.S.C. 355(d)) to clarify that FDA, at its discretion, may make exception to the general requirement that there must be more than one adequate and well-controlled investigation to support an effectiveness determination. Section 115 of the Modernization Act provides in relevant part that "[i]f the [agency] determines, based on relevant science, that data from one adequate and well-controlled clinical investigation and confirmatory evidence (obtained prior to or after such investigation) are sufficient to establish effectiveness, the [agency] may consider such data and evidence to constitute substantial evidence [of effectiveness]."

In clarifying the standard for substantial evidence, Congress acknowledged the agency's position that there have been major advances in the science and practice of clinical drug development since the effectiveness requirement was added to the act in 1962, and confirmed FDA's interpretation of the substantial evidence of effectiveness standard, as explained in the draft guidance document.

In addition to the provision on the evidence standard, the Modernization Act included section 403, "Approval of Supplemental Applications for Approved Products." Section 403(a) of the Modernization Act requires FDA to publish in the **Federal Register**, within 180 days of enactment, standards for the prompt review of supplemental applications for drugs and biological products. These standards are included in a guidance document for which a notice of availability is published elsewhere in this issue of the **Federal Register**.

Section 403(b) of the Modernization Act requires that FDA, within 180 days of enactment, issue final guidances to clarify the requirements for, and facilitate the submission of data to support, the approval of supplemental applications for drugs and biologics. The guidance issued today fulfills this statutory requirement as it addresses the data requirements for both original drug and biological product applications and supplements to those applications.

In addition, section 403(b)(1) of the Modernization Act requires that FDA provide guidance to "clarify circumstances in which published matter may be the basis for approval of a supplemental application." Section III of the guidance describes the circumstances in which a sponsor may rely in part, or entirely, on published reports of studies to support approval of a supplemental application.

Section 403(b)(2) of the Modernization Act requires that FDA provide guidance to "specify data requirements that will avoid duplication of previously submitted data by recognizing the availability of data previously submitted in support of an original application." Section II of the guidance describes a range of circumstances in which existing data, whether or not previously submitted to an original application, may be used to support an application for a supplemental indication, thus permitting a sponsor to avoid developing unnecessary additional data.

The agency received 13 submissions commenting on the draft guidance, including comments from pharmaceutical and biological products companies and their trade associations, individuals and organizations in academic medicine and clinical pharmacology, patient advocacy organizations, and a consumer. The response to the draft guidance was generally favorable. The guidance was viewed as a significant step forward by the agency in clarifying and better articulating its quantitative and qualitative evidentiary standards for evidence of effectiveness. Comments observed that the principles espoused were scientifically reasonable, practical, and appropriately flexible. The agency has considered all of the comments in making revisions to the guidance document.

This guidance document is being issued as a Level 1 guidance consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on clinical evidence of effectiveness for human drug and biological products. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Submit written requests for single copies of the guidance for industry entitled "Providing Clinical Evidence of Effectiveness for Human Drug and Biological Products" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857; or the Office of Communication, Training and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Please send one self-addressed adhesive label to assist the offices in processing your request. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the CBER FAX Information System at 1–888–CBERFAX or 301–827–3844.

Interested persons may at any time submit written comments on the guidance to the Dockets Management Branch (address above). Requests and comments should be identified with the docket number found in brackets in the heading of this notice. A copy of the guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–12901 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0214]

Guidance for Industry on Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing and Labeling; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing and Labeling." The guidance is intended for sponsors planning to conduct studies to assess the influence of renal impairment on the pharmacokinetics of an investigational drug.

DATES: General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this guidance are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm", or "http://www.fda.gov/cber/guidelines.htm". Submit written requests for single copies of "Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing and Labeling" to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food

and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or Office of Communication, Training and Manufacturers Assistance (HFM–40), 1401 Rockville Pike, Rockville, MD 20852–1448, or by calling 1–800–835–4709 or 301–827–1800. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Shiew-Mei Huang, Center for Drug Evaluation and Research (HFD–850), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5671; or

Martin D. Green, Center for Biologics Evaluation and Research (HFM–579), 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–5344.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance entitled "Pharmacokinetics in Patients with Impaired Renal Function—Study Design, Data Analysis, and Impact on Dosing and Labeling."

The pharmacokinetics (PK) and pharmacodynamics (PD) of drugs primarily eliminated through the kidneys may be altered by impaired renal function to the extent that the dosage regimen needs to be changed from that used in patients with normal renal function. Although the most obvious type of change arising from renal impairment is a decrease in renal excretion (or possibly renal metabolism) of a drug or its metabolites, renal impairment also has been associated with other changes, such as changes in hepatic metabolism, plasma protein binding, and drug distribution. These changes may be particularly prominent in patients with severely impaired renal function and have been observed even when the renal route is not the primary route of elimination of a drug. Thus, for most drugs that are likely to be administered to patients with renal impairment, PK characterization may need to be assessed in subjects with such impairment to provide appropriate dosing recommendations.

The guidance provides specific information on when studies of PK in patients with impaired renal function should be performed and when they may be unnecessary. It also addresses the design and conduct of PK studies in patients with impaired renal function, the design and conduct of PK studies in end stage renal disease patients treated with dialysis, the analysis and reporting of the results of such studies, and representation of these results in approved product labeling.

In the **Federal Register** of June 16, 1997 (62 FR 32617), FDA announced the availability of a draft version of this guidance, entitled "Pharmacokinetics and Pharmacodynamics in Patients with Impaired Rental Function: Study Design, Data Analysis, and Impact on Dosing and Labeling." The June 16, 1997, document gave interested persons an opportunity to submit comments through August 15, 1997. All comments received through the end of September have been carefully reviewed and incorporated, where appropriate, in this revised guidance.

This guidance is being issued as a Level 1 guidance consistent with FDA's good guidance practices (62 FR 8961, February 27, 1997). It represents the agency's current thinking on conducting PK studies on patients with impaired renal function. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the guidance is available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–12898 Filed 5–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Molecular Computing Elements: Gates and Flip-Flops

TD Schneider, PN Hengen (NCI)
DHHS Reference No. E–170–97/0 filed Feb. 20, 1998
Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270

The present invention is a method and apparatus for molecular computing which provides for molecular logic devices analogous to those of electronic computers, such as flip-flops, AND gates, etc. Coupling of the gates allows for molecular computing. The method allows data storage, the transformation of binary information and signal readout. Possible applications include encoding "read only" memory for microscopic identifiers, digital control of gene expression, and quantification of analytes. The computing elements also provide means for complex regulation of gene expression.

Lipooligosaccharide-Based Vaccine for the Prevention of Moraxella (Branhamella) Catarrhalis Infections In Humans

X–X Gu, JB Robbins (NIDCD)
Serial No. 60/071,483 filed Jan 13, 1998
Licensing Contact: Robert Benson, 301/496–7056 ext. 267

This invention is a vaccine for the prevention of disease caused by M. catarrhalis, which is the third most common causative agent of otitis media (middle ear infection) and sinusitis in children. The emergence of antibiotic resistant bacteria has caused concern that treatment of otitis media will become more problematic. This invention offers a new approach to managing otitis media. The vaccine is composed of lipooligosaccharide (LOS), isolated from the surface of strains of M. catarrhalis and detoxified by removing esterified fatty acids to produce detoxified LOS (dLOS), which is then conjugated to an immunogenic protein carrier such as tetanus toxiod. The conjugates have been shown to be nontoxic by the limulus amebocyte

assay. Antisera raised in rabbits immunized with the conjugate is bacteriocidal *in vitro* against homologous and many heterologous strains of *M. catarrhalis.*

Conjugate Vaccine for Nontypeable Haemophilus Influenzae

X–X Gu, C–M Tsao, DJ Lim, JB Robbins (NIDCD)
Serial No. 08/842,409 filed April 23, 1997
Licensing Contact: Robert Benson, 301/496–7056 ext. 267

This invention is a vaccine for the prevention of disease caused by nontypeable H. influenzae (NTHi), which causes 25%–40% of otitis media cases (middle ear infections) in children. The emergence of antibiotic resistant bacteria has caused concern that treatment of otitis media will become more problematic. This invention offers a new approach to managing otitis media. The vaccine is composed of lipooligosaccharide, isolated from the surface of strains of NTHi and treated with hydrazine to remove esterified fatty acids, covalently conjugated to an immunogenic carrier, such as tetanus toxoid. The conjugates have been shown to be nontoxic by the limulus amebocyte assay, rabbit pyrogen test and in an mouse lethal toxicity test. Antisera raised in rabbits immunized with the conjugate is bacteriocidal in vitro against homologous and many heterologous strains of NTHi. A blind controlled trial in chinchillas, an animal model for otitis media, showed that the vaccines are protective against challenge by NTHi.

Calorimeter and Method for Simultaneous Measurement of Thermal Conductivity and Specific Heat of Fluids

NL Gershfeld, CP Mudd, AJ Jin, K Fukada (NIAMS)
Serial No. 08/994,230 filed December 19, 1997
Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270

The present invention is a novel calorimeter and calorimetry apparatus and method for the ultrasensitive simultaneous measurement of heat capacity and thermal conductivity of fluids. The unique simultaneous measurement of the two parameters avoids sources of error in other methods. The calorimeter shows excellent accuracy of 1 part in 10,000 and run-to-run variability of 1 part in 100,000, as well as excellent long-term reproducibility. The invention is well suited for the study of biomaterials, such as lipids and proteins and other colloidal systems, which are not easily analyzed using conventional commercial instruments.

A Multi-Slice PET Scanner Constructed From Side-Looking Phoswich Scintillators Coupled to Miniature Position-Sensitive Photomultiplier Tubes: Application in Small Animal Imaging

MV Green (CC)
DHHS Reference No. E–288–97/0 filed Nov 12, 1997
Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270

The present application describes a new positron emission tomography (PET) scanner. The design of this scanner allows reduction of the detector ring size relative to conventional scanners (thereby reducing cost) while increasing resolution, resolution uniformity and sensitivity. This combination of features makes the invention particularly well-suited for small animal imaging in biomedical research, e.g. evaluating changes in organ function due to genetic manipulations.

Chimeric Vaccine Against Tick-Borne Encephalitis Virus

A Pletenev, R Men, RM Chanock, C–J Lai (NIAID)
Serial No. 60/061, 441 filed Oct 08, 1997
Licensing Contact: Carol Salata, 301/496–7735 ext. 232

The present invention relates to a chimeric virus vaccine against tick-borne encephalitis virus (TBEV). The preM and E structural genes of the tick-borne encephalitis Langat virus and the non-structural genes of the mosquito-borne dengue virus form a live, attenuated chimeric virus vaccine against tick-borne encephalitis virus. The live chimeric vaccine was administered intraperitoneally and exhibited complete attenuation in mice while at the same time providing protection against subsequent challenge with the virulent parental Langat virus which is virulent for mice.

Methods and Apparatuses for Processing Synthesized Models of Complex Medical Structures

RM Summers (CC)
Serial No. 60/056, 452 filed Aug 19, 1997
Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270

The present invention provides a new algorithm for generating computer models of complex anatomical structures from data such as CT. This algorithm minimizes the problem of "leakage" found in existing algorithms, which leads to incorrect assignment of voxels as belonging to the feature of interest. This improvement greatly speeds computation time, and anatomical features modeled with this algorithm may be displayed in real time, allowing "virtual endoscopy." The method has been demonstrated in clinical "virtual bronchoscopy." A method for computer-assisted detection of lesions within body cavities is also disclosed.

Simultaneous Multicolor Visualization of Chromogenic Dyes Using Brightfield Microscopy and Spectral Imaging

T Ried, M MacVille (NHGRI)
Serial No. 60/055,439 filed Aug 8, 1997
Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270

The present application describes a method and apparatus for spectral imaging. This invention enables one to distinguish permanent chromogenic dyes attached to DNA probes and hybridized to interphase cells from cytological preparations. This technology has application in areas such as analysis of Pap smears or cells from fine needle aspirations. Color identification is based on the measurement of the entire absorption spectrum of chromogenic dyes by means of spectral imaging, which allows for the unambiguous identification of otherwise not discernable dyes. This approach also allows for multi-parameter analysis of immunocytochemical markers and RNA in situ hybridization. The diagnosis, staging, and prognosis of human cancers could be greatly improved by complementing morphology with genetic markers for tumor progression using this method.

Methods For Treating Parasitic Infection Using Thiopeptides

MJ Rogers, TF McCutchan, GA McConkey, A Fairfield (NIAID) DHHS Reference No. E–202–97/0; PCT/US97/11939 filed July 7, 1997.
Licensing Contact: Carol Salata, 301/496–7735 ext. 232

This invention provides a method for treating a parasitic infection (when the parasite has a plastid-like organelle) with a thiopeptide. The parasitic infection may be caused by parasites of the Apicomplexa phylum, the Microspora phylum or the Ascetospora phylum. The thiopeptide used to treat the parasitic infection can be any member of the class of compounds characterized as sulfur-rich peptide antibiotics with multiple thiazole rings which inhibit protein synthesis in the plastid-like organelle of the parasites.

The disclosed thiopeptides can be, but are not limited to, thiostrepin, micrococcin P. nosiheptide, siomycin, sporangiomycin, althiomycin, the thiocillins and/or thiopeptin, as well as sulfur-rich peptide antibiotic containing multiple thiazole rings, produced by streptomycetes or other peptide antibiotic-producing organisms.

Image Registration Using Closest Corresponding Voxels With an Iterative Registration Process

J Ostuni (LDRR)
Serial No. 08/847,733 filed Apr 28, 1997 (claiming priority date of Apr 29, 1996)
Licensing Contract: John Fahner-Vihtelic, 301/496-7735 ext. 270

The present invention provides a novel method of 3D medical image registration, that is, the alignment of two or more related 3D images. This method overcomes problems seen in conventional registration techniques arising from mismatching of voxel intensities. This is of particular importance when registering images derived from different techniques, such as MRI and CT. The invention allows the registration of images despite the lack of direct relationship between intensity levels in the different techniques, varying patient placement, and occlusion and noise in the image.

System for Synergistic Combination of Multiple Automatic Induction Methods and Automatic Re-Representation of Data

L Hunter (NLM)
DH Reference No. E–118–96/0; PCT/US97/08951 filed May 23 1996
Licensing Contact: John Fahner-Vihtelic, 301/496—7735 ext. 270

The present application describes a unique prototype of an advanced framework which relates to the field of multidimensional data mining, machine learning, and analysis that has been named COEV (for COEVolutional). COEV synergistically combines different methods of statistical analysis, neural networks, decision trees and genetic algorithms for the resolution of data queries. COEV automatically determines the optimal methods and data representations to apply at each step of inquiry and, as a result, can provide outcomes that are significantly more accurate than can be achieved by use of any one methodology alone. The invention uses an evolutionary learning technology to improve predictive outcomes with continued use. COEV is designed to advance the accuracy, flexibility, speed and ease of use of advanced data analysis technologies.

Characteristics of problems that are appropriate for the application of the COEV method are: (1) Appropriate for machine learning, in that there is a well-defined set of input variables and a clear prediction target; (2) difficult for traditional methods, and where a modest improvement in accuracy over existing machine learning methods (e.g., neural networks) would be significant; (3) there is a large amount of training data, ideally thousands of cases.

Possible application areas of interest include the analysis of high-throughput screening data for pharmaceutical discovery, detecting patterns of fraud in insurance claims, or automating screening of medical images.

This invention requires further R&D and testing to make it a practical system for widespread use.

Dated: May 7, 1998.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 98–13011 Filed 5–14–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of SEP: National Institute on Aging Special Emphasis Panel Stress, Aging and Wound Healing.
Date of Meeting: May 27, 1998.
Time of Meeting: 12:00 p.m. to adjournment.
Place of Meeting: Holiday Inn on the Lane, Columbus, Ohio.
Purpose/Agenda: To review a program project application.
Contact Person: Dr. Mary Nekola, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel QTL, Analysis of Age-Related Phenotypes.
Date of Meeting: May 29, 1998.
Time of Meeting: 11:00 a.m. to adjournment.
Place of Meeting: Chicago O'Hare Marriott, Chicago, Illinois.
Purpose/Agenda: To review a program project application.
Contact Person: Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: National Institute on Aging, Initial Review Group Biology, Aging Review Committee.
Dates of Meeting: June 1–2, 1998.
Times of Meeting: June 1–7:30 p.m. to recess, June 2–8:00 a.m. to adjournment.
Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy chase, Maryland 20815.
Purpose/Agenda: To review a program project application.
Contact Person: Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.
Date of Meeting: June 2, 1998.
Time of Meeting: 8:00 a.m. to adjournment.
Place of Meeting: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20815.
Purpose/Agenda: to perform the various grant applications.
Contact Person: Dr. William Kachadorian, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group, Neurosciences of Aging Review Committee.
Date of Meeting: June 8–10, 1998.
Times of Meeting: June 8–7:00 p.m. to recess, June 9–8:00 a.m. to recess, June 10–8:00 a.m. to adjournment.
Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.
Purpose/Agenda: To review grant applications.
Contact Person: Dr. Louise Hsu, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel Alzheimers Disease Patient Registry.
Date of Meeting: June 10, 1998.
Time of Meeting: 4:00 p.m. to adjournment.
Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.
Purpose/Agenda: To review research project.
Contact Person: Dr. Louise Hsu, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special emphasis Panel Group A.
Date of Meeting: June 10, 1998.
Time of Meeting: 8:00 a.m. to 12:00 noon.
Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.
Purpose/Agenda: To pilot study review a grant application mostly concerning molecular biology, Alzheimer's disease, biochemistry and neurology of aging.
Contact Person: Dr. Arthur Schaerdel, Scientific Review Administrator, Gateway

Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel Group B.

Date of Meeting: June 10, 1998.

Time of Meeting: 8:00 a.m. to 12:00 noon.

Place of Meeting: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Purpose/Agenda: To pilot study review a grant application mostly concerning behavior, social activity memory, cognition, and clinical studies of aging.

Contact Person: Dr. Arthur Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, National Bureau of Economic Research

Date of Meeting: June 15, 1998.

Time of Meeting: 8:00 a.m. to 5:00 p.m.

Place of Meeting: Pooks Hill Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Purpose/Agenda: To review grant applications.

Contact Person: Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: May 12, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–13008 Filed 5–14–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Meeting of the Biomedical Library Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Library Review Committee on June 17–18, 1998, convening at 9 a.m. in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 17 will be open to the public from 9 a.m. to approximately 9:30 a.m., 11:30 a.m. to noon, and 3:15 p.m. to 3:45 p.m. and on June 18 from 8:30 a.m. to 8:45 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contract Dr. Sharee Pepper at 301–496–4253 two seeks before the meeting.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., and sec. 10(d) of Pub. L. 92–463, the meeting on June 17 will be closed to the public for the review, discussion, and evaluation of individual grant applications from 9:30 a.m. to approximately 11:30 a.m., noon to 3:15 p.m., and 3:45 p.m. to approximately 5 p.m., and on June 18 from 8:45 a.m. to adjournment. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Sharee Pepper, Health Scientist Administrator, Extramural Programs, national Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–4253, will provide summaries of the meeting, rosters of the committee members, and other information pertaining to the meeting.

(Catalog of Federal domestic Assistance Program No. 93.879—Medical Library Assistance, National Institutes of Health)

Dated: May 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–13009 Filed 5–14–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health National Library of Medicine; Meeting of the Literature Selection Technical Review Committee

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on June 11–12, 1998, convening at 9 a.m. on June 11 and at 8:30 a.m. on June 12 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on June 11 will be open to the public from 9 a.m. to approximately 10:30 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Lois Ann Colaianni at 301–496–6921 two weeks before the meeting.

In accordance with provisions set forth in sec. 552b(c)(9)(B), Title 5 U.S.C., Pub. L. 92–463, the meeting will be closed on June 11 from 10:30 a.m. to approximately 5 p.m. and on June 12 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Scientific Review Administrator of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301–496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: May 8, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–13010 Filed 5–14–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel II in May 1998.

A summary of the meetings may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individuals named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and

financial information about an individual's proposal. The discussions may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3),(4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: May 20, 1998.

Place: DoubleTree Hotel—Rockville Room, 1750 Rockville Pike, Rockville, MD 20852.

Closed: May 20, 1998, 9:00 a.m.—adjournment.

Contact: Joan Harrison, Room 17–89, Parklawn Building, Telephone: (301) 443–3042 and FAX: (301) 443–3437.

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: May 27, 1998.

Place: Park Hyatt Hotel, St. James Park Room, 1201 24th Street, NW, Washington, DC 20037.

Closed: May 27, 1998 9:00 a.m.—adjournment.

Contact: George T. Lewis, Ph.D., Room 17–89, Parklawn Building, Telephone: (301) 443–3042 and FAX: (301) 443–3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: May 11, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–12964 Filed 5–14–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I and Special Emphasis Panel II in June 1998.

A summary of the meetings may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA, Office of Program Planning and Coordination (OPPC), Division of Extramural Activities, Policy, and Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–7390.

Substantive program information may be obtained from the individuals named as Contact for the meetings listed below.

The first meeting will include the review, discussion and evaluation of individual grant proposals. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: June 1–4, 1998.

Place: DoubleTree Hotel—Halpine Room, 1750 Rockville Pike, Rockville, MD 20852.

Closed: June 1–3, 1998, 9:00 a.m.—5:00 p.m., June 4, 1998, 9:00 a.m.—adjournment.

Panel: Center for Mental Health Services Child Mental Health Initiative.

Contact: Mildred Cannon, Ph.D., Room 17–89, Parklawn Building, Telephone: 301–443–9919 and FAX: 301–443–3437.

The remainder of the meetings will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. These discussions may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(3),(4), and (6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: June 8, 1998.

Place: DoubleTree Hotel—Twinbrook Room, 1750 Rockville Pike, Rockville, Maryland 20852.

Closed: June 8, 1998 8:30 a.m.—10:30 a.m.

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: June 8, 1998.

Place: DoubleTree Hotel—Twinbrook Room, 1750 Rockville Pike, Rockville, Maryland 20852.

Closed: June 8, 1998 11:00 a.m.—1:00 p.m.

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: June 8, 1998.

Place: DoubleTree Hotel—Twinbrook Room, 1750 Rockville Pike, Rockville, Maryland 20852.

Closed: June 8, 1998 2:30 p.m.—4:30 p.m.

Committee Name: SAMHSA Special Emphasis Panel II.

Meeting Date: June 9, 1998.

Place: DoubleTree Hotel—Twinbrook Room, 1750 Rockville Pike, Rockville, Maryland 20852.

Closed: June 9, 1998 8:30 a.m.—10:30 a.m.

Contact: Clark Lum, Ph.D., Room 17–89, Parklawn Building, Telephone: 301–443–9919; FAX: 301–443–3437.

Dated: May 11, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–12969 Filed 5–14–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–18]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 15, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement;

and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 7, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Section 5(h) Homeownership Program.

Office; Public and Indian Housing.

OMB Approval Number: 2577–0201.

Decription of the Need for the Information and Its Proposed Use: Housing Authorities (HAs), after consulting with residents, prepare and submit a homeownership plan to HUD. The plan has to meet certain HUD criteria. The information provided by HAs will be used by HUD to ensure that they are complying with the requirements imposed by Section 5 (h) of the Housing Act of 1937.

Form Number: None.

Respondents: State, Local, or Tribal Government, Individuals or Households and Not-For-Profit Institutions.

Frequency of Submission: Recordkeeping and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	50		1		76		3,800
Recordkeeping	50		1		1		50

Total Estimated Burden Hours: 3,850.

Status: Reinstatement without changes.

Contact: Gary Van Buskirk, HUD, (202) 401–8812 x4241, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: May 7, 1998.

[FR Doc. 98–12941 Filed 5–14–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4349–N–19]

Submission for OMB Review: Comment Request

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: June 15, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–1305. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 8, 1998.

David S. Cristy,

Director, IRM Policy and Management Division.

Title of Proposal: Survey of Title I Borrowers.

Office: Housing.

OMB Approval Number: 2502–XXXX.

Descriptio of the Need for the Information and its Proposed Use: Title I loans are made by private lenders, and HUD insures the lender against losses from borrower defaults. HUD needs the added data collections to assess consumer satisfaction and improve portfolio management.

Form Number: None.

Respondents: Individuals or Households and Federal Government.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	10,000		1		.0833		833

Total Estimated Burden Hours: 833.

Status: New.

Contact: Maurice Gulledge, HUD, (202) 708–6396; Joseph F. Lackey Jr., OMB, (202) 395–7316.

Dated: May 8, 1998.

[FR Doc. 98–12942 Filed 5–14–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–10]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: May 15, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1226; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 7, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 98–12619 Filed 5–14–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4315–N–05]

Announcement of OMB Approval Number

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Announcement of the Office of Management and Budget (OMB) approval number.

SUMMARY: The purpose of this document is to announce the OMB approval number for the collection and analysis of information to assess the extent of conformity with the accessibility provisions of the Fair Housing Amendments Act (the Act) of 1988 requiring newly constructed multifamily dwelling covered under the Act, available for first occupancy after March 13, 1991, be designed and constructed to be accessible to persons with disabilities.

FOR FURTHER INFORMATION CONTACT: Alan Rothman, Social Science Analyst, Office of Policy Development and Research, telephone (202) 708–4370, x5726. A telecommunications device for the hearing impaired (TTY) is available at (202) 708–3259 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: On November 25, 1997 (62 FR 62782), the Department published in the **Federal Register** a notice of proposed data collection and analysis of information to assess the extent of conformity with the accessibility provisions of the Fair Housing Amendments Act (the Act) of 1988 requiring newly constructed multifamily dwellings covered under the Act, available for first occupancy after March 13, 1991, be designed and constructed to be accessible to persons with disabilities. The document, entitled, Notice of Proposed Information Collection for Public Comment, indicated that the information collection requirements in the notice has been submitted to the Office of Management and Budget for review and approval under Section 3506 of the Paper Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The proposal also listed the title of the proposal, description of the need for the information and the proposed use. The present document provides notice of the OMB approval number. Accordingly, the control number approved by the Office of Management and Budget in accordance with the Paper Reduction Act of 1995 (U.S.C. 3501–3520) for the Notice of Proposed Information collection for Public Comment is 2528–0193. This approval number expires on October 31, 1999. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Dated: May 7, 1998.

Paul A. Leonard,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 98–12943 Filed 5–14–98; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–98–1040–00]

Call for Gila Box Advisory Committee Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Call for nominations for Gila Box Riparian National Conservation Area Advisory Committee.

SUMMARY: The purpose of this notice is to solicit public nominations to fill two positions on the Gila Box Riparian National Conservation Area Advisory Committee, pursuant to Title 2, Section 201, of the Arizona Desert Wilderness Act of 1990.

The purpose of the Advisory Committee is to provide informed advice to the Safford Field Office Manager on management of public lands in the Gila Box Riparian National Conservation Area. Members are currently assisting BLM specialists with the implementation of the Final Gila Box Interdisciplinary Activity Plan. The Advisory Committee will meet approximately one time during (FY 98) to assist with plan implementation. Members serve without salary, but are reimbursed for travel and per diem expenses at current rates for government employees.

To ensure membership of the Advisory Committee is balanced in terms of categories of interest represented and functions performed, nominees must be qualified to provide advice in specific areas related to the primary purposes for which the Gila Box Riparian National Conservation Area was created. These categories of expertise include wildlife conservation, riparian ecology, archaeology, hydrology, recreation, environmental education, or other related disciplines.

Persons wishing to nominate individuals or those wishing to be considered for appointment to serve on the Advisory Committee should provide names, addresses, professions, biographical data, and category of expertise for qualified nominees. Persons selected to serve on the Committee will serve a three-year term, July 31, 1998 to July 31, 2001. Nominations should be submitted in writing to the Safford Field Office Manager at the address provided below.

ADDRESSES: For further information contact, Elmer Walls, Team Leader, Resource Use and Protection Group, Bureau of Land Management, Safford Field Office, 711 14th Avenue, Safford,

Arizona 85546; telephone number (520) 348–4400.

DATES: All nominations should be received by June 1, 1998.

Dated: May 5, 1998.

William T. Civish,

Field Office Manager.

[FR Doc. 98–12931 Filed 5–14–98; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1020–00 [4000/1790]

Notice of Availability of Final Environmental Impact Statement and Proposed Plan Amendment to Land Use Plans in the Development of Standards for Rangeland Health and Guidelines for Grazing Management on Public Lands in California and Northwestern Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) in California has available a Final Environmental Impact Statement (Final EIS) to address Standards for Rangeland Health and Guidelines for Grazing Management as provided in BLM's grazing regulations (43 CFR Part 4100) and to amend, as necessary, existing Land Use Plans in the State. The Final EIS is prepared in compliance with the National Environmental Policy Act. This notice announces the availability of the Final EIS for public review.

DATES: Protests concerning the Final EIS must be received by June 15, 1998.

ADDRESSES: Protests concerning the Final EIS should be mailed to Director (210), Bureau of Land Management, Attention: Brenda Williams, 1849 C Street, NW., Washington, DC 20240. Requests to receive a copy of the Final EIS should be made to Jim Morrison, Rangeland Health Coordinator, Bureau of Land Management, 2135 Butano Drive, Sacramento, CA 95825–0451 or phone (916) 978–4642.

FOR FURTHER INFORMATION CONTACT: Jim Morrison at (916) 978–4642.

SUPPLEMENTARY INFORMATION: The BLM opened an initial scoping period on March 25, 1996, closing on April 24, 1996 and due to public desires, reopened the scoping period on August 5, 1996, closing September 4, 1996. Information taken during the scoping periods, information developed from BLM's Resource Advisory Councils (RACs), and other information, both existing and new, were used to formulate alternatives and to analyze the impacts to the environment as documented in a Draft EIS. A Draft EIS was issued May 27, 1997 and provided 90 days for public review and comment. The comments received were analyzed and considered in the development of the Final EIS. The comments and BLM's response are included in the Final EIS document.

As indicated in the previous notices of intent, BLM is required by grazing management regulations (43 CFR Part 4100), effective August 21, 1995 to develop state-wide Standards for Rangeland Health and Guidelines for Grazing Management. The final selected Standards and Guidelines (S&Gs) will be incorporated into existing Land Use Plans as plan amendments. The Final EIS is tiered to the national EIS which was completed in early 1995 during the development of the above referenced regulations. The development of rangeland S&Gs for the public owned rangelands in Southern California are not included in this effort and will be developed later in conjunction with the development of coordinated management plans.

There are five alternatives sets of rangeland S&Gs considered in the Final EIS including: (1) a set of S&Gs from each of three RACs which constitutes the proposed action, (2) a consolidated state-wide set of S&Gs, (3) a set of fall-back S&Gs as references in the regulations and constitutes the no action alternative, (4) a set of S&Gs for rapid improvement and recovery of rangeland health and (5) a set of S&Gs as the preferred alternative. The Final EIS analyzes the environmental, social, and economic impacts for each alternative.

This document will also amend 19 existing land use plans in California and portions of Northwestern Nevada. The proposed plan amendments may be protested only by parties who participated in the planning and analysis process and may only protest issues that had been previously raised on the Draft EIS. Protests must be sent to the Director (210), Bureau of Land Management, Attention: Brenda Williams, 1849 C Street, NW., Washington, DC 20240. Protests must be postmarked no later than June 15, 1998. Protests must minimally contain the following information.

1. The name, mailing address, telephone number, and interest of the person filing the protest.

2. A statement of the issue or issues being protested.

3. A statement of the part or parts being protested. Cite pages, paragraphs, maps, etc. of the proposed action where practical.

4. A copy of all documents addressing the issue(s) that the protestant submitted during the draft EIS process, or a reference to the date when the protestant discussed the issue(s) for the record.

5. A concise statement why the protestant believes the BLM State Director's proposed action is incorrect.

At the end of the 30-day protest period, the proposed action, excluding any portion under protest will become final. A Record of Decision will be issued for non-protested portions of the proposal, amending land use plans. Approval will be withheld on any portion of the proposal under protest until a final action has been completed on such protest.

No formal public hearings or meetings are anticipated.

Dated: May 6, 1998.

Carl Rountree,

Deputy State Director, Natural Resources.

[FR Doc. 98–12586 Filed 5–14–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Termination of Preparation of an Environmental Impact Statement for the Great Egg Harbor National Scenic and Recreational River Comprehensive Management Plan

AGENCY: National Park Service, Interior.

ACTION: Termination of preparation of an environmental impact statement.

SUMMARY: This notice announces the termination of work toward preparation of an Environmental Impact Statement for the development of a Comprehensive Management Plan for the Great Egg Harbor National Scenic and Recreational River in New Jersey. The Notice of Intent for this project appeared in the April 10, 1997 **Federal Register**. A determination has since been made that an Environmental Assessment would suffice to address National Environmental Policy Act requirements for development of the Comprehensive Management Plan. The Environmental Assessment will be circulated for public comment upon its completion. Following the comment period, we anticipate preparation of a Finding of No Significant Impact. We encourage all who have an interest in this National Park System unit's future to contact Mary Vavra, National Park Service Program Manager, by letter or telephone.

FOR FURTHER INFORMATION CONTACT: Mary Vavra, Project Manager, National Park Service, Philadelphia Support Office, 200 Chestnut Street, 3rd Floor, Philadelphia, PA 19106, (215) 597–9175.

Dated: May 1, 1998.

Marie Rust,

Field Director, Northeast Field Area, National Park Service.

[FR Doc. 98–12950 Filed 5–14–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Park System Advisory Board; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1994), that a meeting of the National Park System Advisory Board will be held on May 20–21, 1998, at the Holiday Inn of Estes Park, 101 South St. Vrain Street, Estes Park, Colorado. On May 20, the Board will tour Rocky Mountain National Park.

On May 21, 1998, the Board meeting will convene at 9:00 a.m., and will adjourn at approximately 4:30 p.m. Following remarks by the Chairman, the Board will be addressed by the Deputy Director of the National Park Service, Denis Galvin. The Board will deliberate issues relating to natural resource management, future growth of the National Park System, and the role of the National Park Service as educator in American society. The Board will review National Historic Landmark nominations during the morning session.

The Board may be addressed at various times by other officials of the National Park Service and the Department of the Interior; and other miscellaneous topics and reports may be covered. The order of the agenda may be changed, if necessary, to accommodate travel schedules or for other reasons.

The Board meeting will be open to the public. Space and facilities to accommodate the public are limited and attendees will be accommodated on a first-come basis. Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Any one who wishes further information concerning the meeting, or who wishes to submit a written statement, may contact Loran Fraser, Office of Policy, National Park Service, 1849 C Street, NW, Washington, DC 20240 (telephone 202–208–7456).

Draft minutes of the meeting will be available for public inspection about 12 weeks after the meeting, in room 2414, Main Interior Building, 1849 C Street, NW, Washington, DC.

Dated: May 8, 1998.

Denis P. Galvin,

Deputy Director, National Park Service.

[FR Doc. 98–12947 Filed 5–14–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

National Institute of Justice

[OJP (NIJ)–1176]

RIN 1121–ZB13

Announcement of the Availability of the National Institute of Justice Solicitation for "Juvenile Accountability Incentive Block Grant Program Research and Evaluation"

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice "Juvenile Accountability Incentive Block Grant Program Research and Evaluation Solicitation."

DATES: Due date for receipt of proposals is close of business July 14, 1998.

ADDRESS: National Institute of Justice, 810 Seventh Street, NW, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

The National Institute of Justice (NIJ) is requesting proposals for evaluation and research related to the Juvenile Accountability Incentive Block Grant (JAIBG) program, which is administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). It responds to both the congressional and public demand for accountability and the need to develop a knowledge base that examines policy and programmatic experience and continually recommends improvements to them. This initial announcement seeks to support a three-tiered evaluation approach:

(1) A national evaluation of the implementation of JAIBG. One award of up to $500,000 is expected to be made, for a period of up to two years.

(2) Topical research regarding issues of policy raised by the mandates that underlie JAIBG. Six awards of up to $200,000 each are expected to be made, for a period of up to two years each.

(3) Individual practitioner-research partnerships to build local capacity to perform research on crucial areas surrounding the implementation of JAIBG. Ten awards of up to $75,000 each are expected to be made, for a period of up to fifteen months.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of "Juvenile Accountability Incentive Block Grant Program Research and Evaluation" (refer to document no. SL000282). For World Wide Web access, connect either to either NIJ at http://www.ojp.usdoj.gov/nij/funding.htm, or the NCJRS Justice Information Center at http://www.ncjrs.org/fedgrant.htm#nij.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 98–12910 Filed 5–14–98; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Construction of a Federal Correctional Facility in McCreary County, KY

AGENCY: Federal Bureau of Prisons, Department of Justice.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY:

Proposed Action

The U.S. Department of Justice, Federal Bureau of Prisons has determined that, in order to meet increasing demands for additional inmate capacity, a new Federal correctional facility is needed in its system.

The Bureau of Prisons proposes to construct and operate either a high security United States Penitentiary or a medium security Federal Correctional Institution, both with an adjacent minimum security satellite camp, in McCreary County, Kentucky. The high security facility would have a rated capacity of approximately 1,000 inmates. The medium security facility would be designed to have a rated capacity of approximately 1,200 inmates, and the minimum security component would house approximately 150–300. The potential site also would be used for road access, administration, programs and services, parking, and support facilities.

In the process of evaluating several potential sites, several aspects will receive a detailed examination including utilities, traffic patterns, noise levels, visual intrusions, threatened and endangered species, cultural resources, and socio-economic impacts.

Alternatives

In developing the DEIS, the options of "no action" and "alternative sites" for the proposed facility will be fully and thoroughly examined.

Scoping Process

Informal discussions and meetings with local economic development staff have already been held on the proposed project, and during the preparation of the DEIS, there will be numerous other opportunities for public involvement. The public scoping meeting will begin at 7:00 p.m. on Thursday, May 21, 1998, at the Mcreary Central High School Auditorium, located on Raider Way, Stearns, Kentucky. The meeting has been well publicized and is scheduled at a time that will make the meeting possible for the public and interested agencies or organizations to attend.

DEIS Preparation

Public notice will be given concerning the availability of the DEIS for public review and comment.

ADDRESS: Questions concerning the proposed action and the DEIS can be answered by: James B. Jones, Deputy Assistant Director, Administration Division, Federal Bureau of Prisons, 320 First Street, NW., Washington, D.C. 20534, Telephone: (202) 307–3230, Telefacsimile: (202) 514–9481.

Dated: May 8, 1998.

David J. Dorworth,

Chief, Site Selection and Environmental Review Branch.

[FR Doc. 98–13075 Filed 5–14–98; 8:45 am]

BILLING CODE 4410–05–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

None

Volume III

None

Volume IV

None

Volume V

None

Volume VI

None

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be

found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon and Related Acts." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, D.C. This 8th day of May 1998.

Margaret J. Washington

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–12549 Filed 5–14–98; 8:45 am]

BILLING CODE 4510–27–M

THE NATIONAL BIPARTISAN COMMISSION ON THE FUTURE OF MEDICARE

Public Meeting

Establishment of the Medicare Commission included in Chapter 3, Section 4021 of the Balanced Budget Act of 1997 Conference Report. The Medicare Commission is charged with holding public meetings and publicizing the date, time and location in the **Federal Register.**

Notice of Public Meetings to be held on Monday, June 1, 1998 and Tuesday, June 2, 1998 in Washington, DC.

The National Bipartisan Commission on the Future of Medicare will hold public meetings on June 1 and 2, 1998; location to be determined. Please check the Commission's web site for the location of the meeting: http://Medicare.Commission.Gov.

Monday, June 1, 1998
1:15 PM–5:00 PM
Tentative Agenda:
Modeling Task Force Presentation
Commission Discussion of Benefits, Cost and Eligibility Issues

Tuesday, June 2, 1998
9:00 AM–11:00 AM
Tentative Agenda:
Commission Discussion of Management, Administration and Financing Issues

If you have any questions, please contact the Bipartisan Medicare Commission, Ph: 202–252–3380.

Authorized for publication in the Federal Register by Julie Hasler, Office Manager, National Bipartisan Medicare Commission.

I hereby authorize publication of the Medicare Commission meetings in the **Federal Register.**

Julie Hasler,

Office Manager, National Bipartisan Medicare Commission.

[FR Doc. 98–13029 Filed 5–14–98; 8:45 am]

BILLING CODE 1132–00–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities

Meeting

May 11, 1998.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on May 27, 1998.

The purpose of this meeting is to advise the recently appointed Chairman of the National Endowment for the Humanities with respect to policies and procedures for carrying out his functions.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC from 10:00 a.m. to 3:00 p.m. Because the Council will consider information relating to the internal practices of the agency and information the disclosure of which would significantly affect implementation of proposed agency action, the meeting will not be open to the public pursuant to subsections (c)(2) and (9)(B) of Section 552b of Title 5, United States Code. I have made this determination under the authority granted to me by the Chairman's Delegation of Authority dated July 19, 1993.

Further information about this meeting can be obtained from Ms. Nancy E. Weiss, Advisory Committee Management Officer, 1100 Pennsylvania Avenue, NW., Suite 530, Washington, DC 20506, Telephone: (202) 606–8322, TDD: (202) 606–8282.

Nancy E. Weiss,

Advisory Committee Management Officer.

[FR Doc. 98–12954 Filed 5–14–98; 8:45 am]

BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

National Science Board; Nominations for Membership

The National Science Board (NSB) is the policymaking body of the National Science Foundation NSF). The Board consists of 24 members appointed by the President, with the advice and consent of the Senate, for six-year terms, in addition to the NSF Director *ex officio*. Section 4(c) of the National Science Foundation Act of 1950, as amended, states that: "The persons nominated for appointment as members of the Board (1) shall be eminent in the fields of the basic, medical, or social sciences, engineering, agriculture, education, research management, or public affairs; (2) shall be selected solely on the basis of established records of distinguished service; and (3) shall be so selected as to provide representation of the views of scientific and engineering leaders in all areas of the Nation."

The Board and the NSF Director solicit and evaluate nominations for submission to the President. Nominations accompanied by biographical information may be forwarded to the Chairman, National Science Board, 4201 Wilson Boulevard, Arlington, VA, 22230, no later than June 15, 1998.

Any questions should be directed to Mrs. Susan E. Fannoney, Staff Assistant, National Science Board Office (703/306–2000).

Susan E. Fannoney,

Staff Assistant, NSB.

[FR Doc. 98–12948 Filed 5–14–98; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Standards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on June 3–5, 1998, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the Federal

Register on Thursday, November 20, 1997 (62 FR 62079).

Wednesday, June 3, 1998

8:30 a.m.–8:45 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:45 a.m.–11:15 a.m.: AP600 Design (Open)—The Committee will hear presentations by and hold discussions with representatives of the Westinghouse Electric Company and the NRC staff regarding Chapters 3, 6, 14, 16 and 17 of the AP600 Standard Safety Analysis Report, as well as the PRA, regulatory treatment of the non-safety systems, Test and Analysis Program performed by Westinghouse in support of the AP600 design, and the associated NRC staff's evaluation.

11:15 a.m.–12:00 Noon: Human Performance Plan (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding issues/concerns raised by the ACRS members on the revised Human Performance Plan.

1:00 p.m.–2:30 p.m.: Core Research Capabilities at NRC (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding core research capabilities at NRC.

2:45 p.m.–4:45 p.m.: BWR Extended Power Uprate Application (Open/Closed)—The Committee will hear presentations by and hold discussions with representatives of the General Electric Company (GE), the Monticello Nuclear Generating Plant licensee, and the NRC staff regarding the GE power uprate plan for operating BWRs, and the application from the Monticello Nuclear Generating Plant for a power level increase of 6.3 percent.

Note: A portion of this session may be closed to discuss the General Electric Company proprietary information.

5:00 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting. During this meeting, the Committee will also discuss a proposed ACRS report on the NRC Safety Research Program.

Thursday, June 4, 1998

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding conduct of the meeting.

8:35 a.m.–9:45 a.m.: Agency-Wide Plan for High-Burnup Fuel (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Agency-wide plan for high-burnup fuel.

10:00 a.m.–11:00 a.m.: Operating Plan for the NRC Technical Training Programs (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the Operating Plan for the NRC technical training programs and related matters.

11:00 a.m.–12:30 p.m.: Proposed Modifications to 10 CFR 50.59, Changes, Tests and Experiments (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the status of staff activities associated with the proposed modifications to 10 CFR 50.59.

1:30 p.m.–2:45 p.m.: Proposed Final Standard Review Plan (SRP) Section and Regulatory Guide for Risk-Informed Inservice Inspection of Piping (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed SRP Section and Regulatory Guide for risk-informed inservice inspection of piping at nuclear power plants, as well as the issues and concerns raised previously by the ACRS members on this matter.

2:45 p.m.–3:15 p.m.: Future ACRS Activities (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings.

3:15 p.m.–3:30 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports, including the EDO response to the comments and recommendations included in the April 8, 1998 ACRS report regarding Plans to Increase the Performance-Based Approaches in Regulatory Activities.

3:45 p.m.–7:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

Friday, June 5, 1998

8:30 a.m.–9:00 a.m.: Report of the Planning and Procedures Subcommittee (Open/Closed)—The Committee will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

Note: A portion of this session may be closed to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of this Advisory Committee, qualifications of candidates for ACRS membership, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

9:00 a.m.–3:30 p.m. (12:00–1:00 p.m. Lunch): Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports on matters considered during this meeting.

3:30 p.m.—4:00 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 4, 1997 (62 FR 46782). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statement should notify Mr. Sam Duraiswamy, Chief of the Nuclear Reactors Branch, at least five days before the meeting, if possible, so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Chief of the Nuclear Reactors Branch prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Chief of the Nuclear Reactors Branch if such rescheduling would result in major inconvenience.

In accordance with Subsection 10(d) Pub. L. 92–463, I have determined that it is necessary to close portions of this meeting noted above to discuss matters that relate solely to the internal personnel rules and practices of this Advisory Committee per 5 U.S.C. 552b(c)(2), to discuss General Electric Company proprietary information per 5 U.S.C. 552b(c)(4), and to discuss information the release of which would constitute a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting Mr. Sam Duraiswamy, Chief of the Nuclear Reactors Branch (telephone 301/415–7364), between 7:30 A.M. and 4:15 P.M. EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Dated: May 11, 1998.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 98–12977 Filed 5–14–98; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These

rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's home page (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in May 1998. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in June 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the "applicable percentage" (described in the statute and the regulation) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the "premium payment year"). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

For plan years beginning before July 1, 1997, the applicable percentage of the 30-year Treasury yield was 80 percent. The Retirement Protection Act of 1994 (RPA) amended ERISA section 4006(a)(3)(E)(iii)(II) to change the applicable percentage to 85 percent, effective for plan years beginning on or after July 1, 1997. (The amendment also provides for a further increase in the applicable percentage—to 100 percent—when the Internal Revenue Service adopts new mortality tables for determining current liability.)

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in May 1998 is 5.03 percent (*i.e.*, 85 percent of the 5.92 percent yield figure for April 1998).

(Under section 774(c) of the RPA, the amendment to the applicable percentage was deferred for certain regulated public utility (RPU) plans for as long as six months. The applicable percentage for RPU plans has therefore remained 80 percent for plan years beginning before January 1, 1998. For "partial" RPU plans, the assumed interest rates to be used in determining variable-rate premiums can be computed by applying the rules in § 4006.5(g) of the premium rates regulation. The PBGC's 1997 premium payment instruction booklet also describes these rules and provides a worksheet for computing the assumed rate.)

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between June 1997 and May 1998. The rates for July through December 1997 in the table (which reflect an applicable percentage of 85 percent) apply only to non-RPU plans. However, the rates for June 1997 and for months after December 1997 apply to RPU (and "partial" RPU) plans as well as to non-RPU plans.

For premium payment years beginning in	The assumed interest rate is
June 1997	5.55
July 1997	5.75
August 1997	5.53
September 1997	5.59
October 1997	5.53
November 1997	5.38
December 1997	5.19
January 1998	5.09
February 1998	4.94
March 1998	5.01
April 1998	5.06
May 1998	5.03

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in June 1998 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 8th day of May 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–12912 Filed 5–14–98; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 FR 26231, May 12, 1998].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: May 12, 1998.

CHANGE IN THE MEETING: Additional Item.

The following item will be added to the closed meeting scheduled for Thursday, May 14, 1998, at 10 a.m.: Amicus brief.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

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 (202) 942–7070.

Dated: May 13, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–13109 Filed 5–13–98; 3:05 pm]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3057]

State of California; Amendment #5

In accordance with a notice from the Federal Emergency Management Agency, dated April 30, 1998, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on February 2, 1998 and continuing through April 30, 1998.

All other information remains the same, i.e., the deadline for filing applications for physical damage is May 8, 1998 and for economic injury the termination date is November 9, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 30, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–12968 Filed 5–14–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3082]

Commonwealth of Kentucky

As a result of the President's major disaster declaration on April 29, 1998, I find that the following counties in Kentucky constitute a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on April 16, 1998 and continuing: Adair, Barren, Bell, Casey, Clay, Floyd, Knott, Knox, Metcalfe, Perry, Warren, and Whitley. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on June 28, 1998, and for loans for economic injury until the close of business on January 29, 1999 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in Kentucky may be filed until the specified date at the above location: Allen, Boyle, Breathitt, Butler, Cumberland, Edmonson, Green, Harlan, Hart, Jackson, Johnson, Laurel, Leslie, Letcher, Lincoln, Logan, Magoffin, Marion, Martin, McCreary, Monroe, Owsley, Pike, Pulaski, Russell, Simpson, and Taylor.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

Physical Damage:	
Homeowners with credit available elsewhere	7.000%
Homeowners without credit available elsewhere	3.500%
Businesses with credit available elsewhere	8.000%
Businesses and non-profit organizations without credit available elsewhere	4.000%
Others (including non-profit organizations) with credit available elsewhere	7.125%
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000%

The number assigned to this disaster for physical damage is 308212 and for economic injury the number is 985300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 6, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–12975 Filed 5–14–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3078]

State of Tennessee; Amendment #1

In accordance with notices from the Federal Emergency Management Agency dated April 27 and 29, and May 4, 1998, the above-numbered Declaration is hereby amended to include the following counties in the State of Tennessee as a disaster area due to damages caused by severe storms, tornadoes, and flooding beginning on April 16, 1998 and continuing: Blount, Carroll, Cheatham, Gibson, Giles, Grainger, Hardin, Hawkins, Jefferson, Macon, Monroe, Roane, Sumner, and Williamson.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Benton, Chester, Greene, Hamblen, Henderson, Henry, Jackson, Lincoln, McNairy, Sullivan, Washington, and Weakley Counties in Tennessee; Cherokee and Graham Counties in North Carolina; and Alcorn and Tishomingo Counties in Mississippi.

Any counties contiguous to the above-name primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is June 19, 1998 and for economic injury the termination date is January 20, 1999.

The economic injury number for Mississippi is 987500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 8, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–12976 Filed 5–14–98; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Program Announcement No. SSA–ORES–98–2]

Federal Old-Age, Survivors, and Disability Insurance

AGENCY: Social Security Administration.

ACTION: Announcement of the availability of fiscal year 1998 funds for Section 1110 research grants.

SUMMARY: The Social Security Administration (SSA) announces that competing applications will be accepted for new research grants authorized under section 1110 of the Social Security Act. This announcement, consisting of three parts, describes the nature of the grant activities and gives notice of the anticipated availability of fiscal year (FY) 1998 funds in support of the proposed activities. Part I discusses the purpose of the announcement and briefly describes the application process. Part II describes the programmatic priorities under which SSA is soliciting applications for funding. Part III describes the application process and provides guidance on how to submit an application.

DATES: The closing date for the receipt of grant applications in response to this announcement is July 14, 1998.

FOR FURTHER INFORMATION CONTACT: For information on the application or for an application kit: Mr. E. Joe Smith, Grants Management Officer; Office of Operations Contracts and Grants; Office of Acquisition and Grants; Social Security Administration; 1–E–4 Gwynn Oak Building; 1710 Gwynn Oak Avenue; Baltimore, Maryland 21207–5279; telephone (410) 965–9503. Mr. Smith's e-mail address is: joe.smith@ssa.gov.

For information on the program content of the announcement: Ms. Eleanor Cooper, Coordinator for Extramural Research; Office of Research, Evaluation and Statistics; Social Security Administration; 4–C–15 Operations; 6401 Security Boulevard; Baltimore, Maryland 21235; telephone (410) 966–9824. Ms. Cooper's e-mail address is: eleanor.l.cooper@ssa.gov.

SUPPLEMENTARY INFORMATION:

Part I. Purpose and The Grants Process

A. Program Purpose

This research is intended to add to existing knowledge about components of economic security and about the changing economic status of the aged or disabled, with emphasis on Social Security beneficiaries. Policymakers and social scientists are potential users of the results.

There is much discussion of Social Security reform and the future shape of the program, which provides economic security for the aged, survivors and those who are disabled. We are interested in focusing our efforts on the major ideas being put forth to help

inform the Social Security reform discussion. Information will be needed both before and after consensus is reached on potential reforms. There is no specific plan contemplated at this time, so information is needed about the many broad reforms being discussed.

In general, SSA will fund a select number of projects in the following areas:

1. Research on issues pertaining to major changes in the structure of Social Security.

2. Research which develops models and other analyses that aid in understanding the likely behavioral consequences of increasing the retirement age.

3. Research on Social Security/Private Pension Integration which will explore how pension integration affects the economic status of retirees.

4. Research that uses data from the Luxembourg Income Study to assess the relative effectiveness of different social insurance systems in combating poverty among elderly women.

5. Research on economic and demographic assumptions that will affect the future financial status of the Social Security Old Age, Survivors and Disability Insurance (OASDI) programs.

B. FY 1998 Grant Process

The grant application process for FY 1998 will consist of a one-stage, full application. Applications are limited to 20 single-or 40 double-spaced pages (excluding resumes, forms, etc.) and must relate to the selection criteria established for review of applications.

Some priority areas in this announcement permit applicants to propose research efforts from 12 to 24 months in duration. In item 11 of the Face Sheet (page 1 of form SSA–96–BK) indicate the priority area under which the application is submitted; i.e., ORES–98–001, ORES–98–002, etc.

Part II. Priority Research Areas and Evaluation Criteria

In general, grant proposals must be based on well-developed rigorous analysis, including at a minimum the elements specified in the evaluation criteria in Part II.B. below.

A. Priority Research Areas

In particular, the following priority project areas will be considered for funding:

1. Issues Pertaining to Major Changes in the Structure of Social Security—ORES–98–001

The 1994–96 Advisory Council on Social Security was appointed to examine the long-term financing problems facing the Social Security system and to propose possible solutions for putting the system on firm financial footing. As part of this effort, the Council considered many different options designed to restore the long-term fiscal integrity of the program, including options which would lead to a partial privatization of Social Security. In order to respond with better information to the increasing call for Social Security reform, we propose a program of small grants which would foster research regarding Social Security reform.

Research proposals in any of the following general areas are sought: (1) Research into the possible macroeconomic impacts of investing a significant portion of the Social Security trust fund in private equities; (2) research into the possible macroeconomic effects of a full or partial privatization of Social Security; (3) research concerning potential impacts on financial markets, rates of return, and/or capital formation of either partial investment of Social Security trust fund monies in private securities or of the full or partial conversion of the Social Security program into one of individualized accounts; (4) analysis of the financial and economic risks faced by individuals in a privatized Social Security system; (5) analysis to determine whether or not private insurance markets could, or would, provide equivalent retirement, survivors, and disability insurance to that provided by the current Social Security program, as well as investigating the likely cost to individuals of such insurance; (6) research on the possible effects that major changes in the structure of Social Security might have on individuals' saving behavior, national savings, and/or the unified budget; and (7) research into other topics of interest and importance associated with the debate surrounding reform proposals.

Applications may be submitted for multi-year funding not to exceed *either* 12 months *or* 24 months in duration. It should be noted that, for grants of 24 months duration, an interim report of research findings will be required at the end of the initial 12-month period. It is particularly important for the agency to receive grant results within the first year on the implications of retirement policy assessments, such as individual accounts, retirement age, other structural changes, etc. It is anticipated that up to $400,000 will be allocated to fund one or more projects under this priority area for the initial 12-month budget period. Applications for multi-year funding should include a budget for the first budget period (not to exceed 12 months). If the application is approved, a grant will be awarded for the initial 12-month budget period. Funding will subsequently be provided for up to an additional 12-month budget period dependent on satisfactory performance of the initial budget period, continued relevance of the project, and the availability of FY funds.

2. Retirement Age Changes—ORES–98–002

Social Security's normal retirement age (NRA) is scheduled to rise gradually to 67 by 2027. Concern about the Old Age Survivors Insurance program's long-term financial balance has prompted consideration of additional changes in Social Security's retirement ages. Among the possibilities discussed are: (a) an accelerated rise in the NRA; (b) increasing the NRA beyond age 67; (c) indexing the NRA to reflect changes in life expectancy; (d) increasing Social Security's early retirement age (ERA); or (e) some combination of (a)–(d).

Policy questions of this type have been explored by researchers in the past, and the estimated effects of some of these policy changes on work and retirement patterns are available. The existing estimates were, for the most part, generated using econometric models based on the somewhat dated Retirement History Study data. With the availability of successive waves of new data from the Health and Retirement Survey (HRS) to support new research, as well as other databases that measure the labor force activity of older workers, we seek to fund the development of new retirement models and other analyses.

SSA is primarily interested in research proposals that develop models and other analyses that aid in understanding the likely behavioral consequences of increasing the retirement age. This research should examine the effects of Social Security's retirement ages on the timing of retirement within the context of a framework that jointly addresses the influence of other known factors such as pensions, assets, earnings opportunities, and health. Acceptable proposals might also consider one or more of the following issues: How will the timing of first-receipt of Social Security benefits by persons aged 62 and older change? What will be the effects of raising the retirement age on women? To what extent would this type of policy change affect the mix of part-time and full-time employment desired by older workers? Are "bridge jobs" likely to become more or less important? How will the labor supply response of older workers vary by gender, age, occupation, health

status, and ethnicity? Do other Social Security program features significantly deter work among the elderly, thereby offsetting (at least to some extent) the increased work that a higher retirement age is likely to promote?

It is anticipated that up to $400,000 will be allocated to fund one or more projects for up to 12 months under this priority area. Preliminary results are to be submitted 6 months after the grant is awarded.

3. Social Security/Private Pension Integration—ORES–98–003

Many employer-provided pension plans contain rules that coordinate pension benefits with Social Security benefits that the retired worker receives. These pension plans are said to be *integrated* with Social Security. SSA seeks research proposals that explore how pension integration affects the economic status of retirees.

SSA is interested in projects which explore the economics of and rationale for the existence of private pension plan integration provisions. They should document the prevalence of integrated plans and identify any trends and their causes (e.g., to what extent has the shift from defined benefit to defined contribution plans had an impact on the numbers of workers with integrated plans?). The projects should examine the effects of pension integration on the post-retirement distribution of income.

Fully developed proposals might also outline research that addresses one or more of the following issues: What factors are associated with the occurrence of integration provisions in private pension plans? For example, is plan integration associated with employer characteristics, the level of workers' total compensation, the mix of employer-employee contributions, or the generosity of the pension plan? How would changes in basic OASDI program features, such as the Early and Normal Retirement Ages, or in major changes in the structure of the OASDI program, such as individual accounts, likely affect the prevalence and form of integrated pension plans and retirement income? We will entertain proposals for other research projects that contribute to our understanding of how pension plan integration affects the economic well-being of Social Security beneficiaries.

It is anticipated that up to $100,000 will be allocated to fund a project for up to 12 months under this priority area.

4. Poverty Among Older Women Cross-Nationally—ORES–98–004

Although in recent decades many Western industrialized nations have undergone demographic, labor market, and social changes akin to those in the United States, poverty rates among older women continue to differ. Older women in the United States, particularly those who are unmarried, fare comparatively worse economically than their counterparts in other industrialized nations. The Luxembourg Income Study is a unique source of information on the economic circumstances of individuals in more than twenty countries. For many of the countries, data are available for multiple years. We seek to fund research that uses these data to assess the relative effectiveness of different social insurance systems in combating poverty among elderly women. The project should include not only a description and comparison of the economic status of elderly women in the chosen countries but also an analysis of its correlates (e.g., marital status, sources and amounts of each type of income). Particular attention should be paid to the institutional structure of each country's social insurance program as it pertains to women (e.g., spousal benefits, widow's and divorced spouse benefits, compensations for interruptions in a woman's work history for child-rearing and caregiving) as well as the extent to which the program is integrated with private sources of retirement income. To isolate the effects of public policies on older women's poverty, consideration of multiple years of data in select countries may be warranted.

It is anticipated that up to $100,000 will be allocated to fund a project for up to 12 months under this priority area.

5. Economic and Demographic Assumptions Recommended for Study by Past Advisory Councils—ORES–98–005

The past two Advisory Councils on Social Security (as well as other Councils before them) recognized the need to conduct research regarding the assumptions and methods used to project the future financial status of the OASDI programs, including measures of the financial soundness of these programs. In addition to examining the economic and demographic assumptions behind these forecasts, the 1994 Advisory Council on Social Security highlighted the need for research into the feasibility of using stochastic simulation modeling for forecasting future economic and demographic trends. In order to respond to these needs, we propose a program of small grants designed to foster original research in these areas.

Research proposals in the following areas are being sought: (1) Research into the determinants and projection of productivity and earnings; (2) research into the effects of changes in the number of hours worked and in fringe benefits on the linkages between productivity and covered earnings; (3) research into the interrelationship of interest rates, productivity, wages, and other economic variables, with some focus on the role of the global economy; (4) research into the use of stochastic simulation models to forecast future economic and demographic trends; (5) research concerning the ultimate rates of mortality decline at all ages as well as investigation of various methods of projecting such rates; and (6) research concerning the impact of the age composition of the population (cohort effects) on labor force participation (particularly female labor force participation), fertility, marriage and divorce with the intention of improving our long-range projections of these variables.

Applications may be submitted for multi-year funding not to exceed 24 months in duration. It is anticipated that up to $200,000 will be allocated to fund one or more projects under this priority area for the initial 12-month budget period. Applications for multi-year funding should include a budget for the first budget period (not to exceed 12 months). If the application is approved, a grant will be awarded for the initial 12-month budget period. Funding will subsequently be provided for up to an additional 12-month budget period dependent on satisfactory performance of the initial budget period, continued relevance of the project, and the availability of FY funds.

Note: To foster the sharing of research, principal investigators for each grant awarded will be required to (1) include in the final report an executive summary which SSA could publish in the quarterly *Social Security Bulletin* and (2) discuss the results of their research with SSA staff. Funds should be included in the grant budget for a meeting at the SSA Office of Research, Evaluation and Statistics, Washington, D.C.

B. Evaluation Criteria

Applications which pass the screening process will be reviewed by at least three individuals. Reviewers will score the applications, basing their scoring decisions on the criteria shown below. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application. Relative weights for the criteria are shown in parentheses.

(1) Project Objective: (25 points)

How closely do the project objectives fit those of the announcement? Is the

need for the project discussed in terms of the importance of the issues to be addressed? Does it describe how the project builds upon previous research? What is the potential usefulness of the anticipated result and expected benefits to the target groups? What is the potential usefulness of the proposed project for the advancement of scientific knowledge?

(2) Project Design: (30 points)

Is the design of the project adequate and feasible as indicated by the appropriateness of the work statement and the technical approach, including: (a) A concise and clear statement of goals and objectives; (b) theoretical analysis of the problem and, if appropriate, hypotheses to be tested and/or parameters to be estimated; (c) specification of data sources; (d) plan for data analysis, including appropriateness of statistical methods to be used; and (e) scheduling of tasks and milestones in the progress of the project? Does the proposal describe specific plans for conducting the project in terms of the tasks to be performed, and how the approach will accomplish the project objectives?

(3) Qualifications: (30 points)

Do the qualifications of the project personnel, as evidenced by training, experience, and publications, demonstrate that they have the knowledge of subject matter and skills required to competently carry out the research and to produce a final report that is comprehensible and usable? Is the staffing pattern appropriate for the proposed research, linking responsibilities clearly to project tasks?

(4) Organization and Budget: (15 points)

Are the resources needed to conduct the project specified, including personnel, time, funds, and facilities? Are any collaborative efforts with other organizations clearly identified and written assurances referenced? Is all budget information provided including a description by category (personnel, travel, etc.) of the total of the Federal funds required, and written assurances referenced? Where appropriate, are justifications and explanations of costs provided? Are the project's costs reasonable in view of the level of effort and anticipated outcome? Does the applicant's organization have adequate facilities and resources to plan, conduct, and complete the project?

Part III. Application Process

A. Eligible Applicants

Any State or local government, public or private organization, nonprofit or for-profit organization, hospital, or educational institution may apply for a grant under this announcement. Applications will not be accepted from applicants which do not meet the above eligibility criteria at the time of submission of applications.

Individuals are not eligible to apply. For-profit organizations may apply with the understanding that no grant funds may be paid as profit to any grant recipient. Profit is considered as any amount in excess of the allowable costs of the grant recipient. A for-profit organization is a corporation or other legal entity which is organized or operated for the profit or benefit of its shareholders or other owners and must be distinguishable or legally separable from that of an individual acting on his/her own behalf.

In accordance with section 18 of the Lobbying Disclosure Act of 1995, 2 U.S.C. 1611, organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive grant awards.

B. Availability and Duration of Funding

SSA anticipates allocating funds for each priority area as follows:

ORES–98–001, "Issues Pertaining to Major Changes in the Structure of Social Security"—up to $400,000 to fund either the 12-month budget period or the initial 12-month budget period (depending on whether a grant is for 1 or 2 years) of one or more projects in this priority area.

ORES–98–002, "Retirement Age Changes"—up to $400,000 to fund the 12-month budget period for one or more projects in this priority area.

ORES–98–003, "Social Security/Private Pension Integration"—up to $100,000 to fund the 12-month budget period for a project in this priority area.

ORES–98–004, "Poverty Among Older Women Cross-Nationally"—up to $100,000 to fund the 12-month budget period for a project in this priority area.

ORES–98–005, "Economic and Demographic Assumptions Recommended for Study by Past Advisory Councils"—up to $200,000 to fund the initial 12-month budget period of one or more projects in this priority area.

C. Grantee Share of the Project Costs

Grant recipients receiving assistance to conduct these research projects are expected to contribute a minimum of 5 percent towards the total cost of the project (cash or in-kind). No grant will be awarded that covers 100 percent of the project's costs.

D. The Application Process for Proposals Requesting Grant Funds

Organizations wishing to compete for grants under this announcement must submit an application by July 14, 1998. Applications received in response to this announcement will be reviewed by Federal and non-Federal personnel.

Successful applicants may expect funding during the fourth quarter of FY 1998 (prior to September 30, 1998).

1. Availability of Application Forms

Application kits which contain the prescribed application forms for grant funds are available from the Grants Management Team; Office of Operations Contracts and Grants; Office of Acquisition and Grants; Social Security Administration; 1–E–4 Gwynn Oak Building; 1710 Gwynn Oak Avenue; Baltimore, Maryland 21207–5279; Mr. E. Joe Smith, Grants Management Officer; telephone (410) 965–9503 (e-mail address: joe.smith@ssa.gov) or Mr. David S. Allshouse, telephone (410) 965–9262 (e-mail address:dave.allshouse@ssa.gov).

When requesting an application kit, the applicant should refer to program announcement number SSA–ORES–98–2 and the date of this announcement to ensure receipt of the proper application kit.

2. Additional Information

For additional information concerning project development, please contact Ms. Eleanor Cooper, Coordinator for Extramural Research; Office of Research, Evaluation and Statistics; Social Security Administration; 4–C–15 Operations; 6401 Security Boulevard, Baltimore, Maryland 21235; telephone (410) 966–9824. Ms. Cooper's e-mail address is: eleanor.l.cooper@ssa.gov.

3. Application Submission

All applications requesting Federal grant funds must be submitted on the standard forms provided by the Grants Management Team. The application shall be executed by an individual authorized to act for the applicant organization and to assume for the applicant organization the obligations imposed by the terms and conditions of the grant award.

As part of the project title (page 1 of the application form SSA–96–BK, item 11), the applicant must clearly indicate that the application submitted is in response to this announcement (SSA–ORES–98–2) and must show the appropriate priority area project identifier (i.e., ORES–98–001, –002, –003, –004, or –005).

Applications must be submitted to the Grants Management Team at the address specified in number 7, below.

4. Application Consideration

Applications are initially screened for relevance to this announcement. If judged irrelevant, the applications are returned to the applicants.

Applications that conform to the requirements of this program announcement will be reviewed and evaluated against the evaluation criteria specified in this announcement and evaluated by Federal and non-Federal personnel. The results of this evaluation will assist SSA in selecting the applications to be funded.

5. Application Approval

Grant awards will be issued within the limits of Federal funds available following the approval of the applications selected for funding. The official award document is the "Notice of Grant Award." It will provide the amount of funds awarded, the purpose of the award, the budget period for which support is given, the total project period for which support is contemplated, the amount of grantee financial participation, and any special terms and conditions of the grant award.

6. Screening Requirements

In order for an application to be in conformance, it must meet *all* of the following requirements:

(a) *Number of Copies:* An original signed and dated application plus at least two copies must be submitted. Five additional copies are optional and will expedite processing of the grant application.

(b) *Length:* The narrative portion of the application (Part III of form SSA–96–BK) must not exceed 20 single-or 40 double-spaced pages, exclusive of resumes, forms, etc., typewritten on one side only using standard size (8 ½" x 11") paper. Applications should neither be unduly elaborative nor contain voluminous documentation.

7. Closing Date for Receipt of Applications

The closing date for receipt of grant applications for Federal funds in response to this announcement is July 14, 1998.

Applications may be mailed or sent by commercial carrier or personally delivered to: Grants Management Team; Office of Operations Contracts and Grants; Office of Acquisition and Grants; Social Security Administration; ATTN: SSA–ORES–98–2; 1–E–4 Gwynn Oak Building; 1710 Gwynn Oak Avenue; Baltimore, Maryland 21207–5279.

Hand-delivered applications are accepted during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

(a) Received on or before the deadline date at the above address; or

(b) Mailed through the U.S. Postal Service or sent by commercial carrier on or before the deadline date and received in time to be considered during the competitive review and evaluation process. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier as evidence of timely mailing. Private metered postmarks are not acceptable as proof of timely mailing.

Applications which do not meet the above criteria are considered late applications. SSA will notify each late applicant that its application will not be considered.

Note: Facsimile Copies Will Not Be Accepted.

Notice Procedures

Paperwork Reduction Act

This notice contains reporting requirements in the "Application Process" section. However, the information is collected using form SSA–96–BK, *Federal Assistance*, which has Office of Management and Budget clearance No. 0960–0184.

Executive Orders 12372 and 12416—Intergovernmental Review of Federal Programs

This program is not covered by the requirements of Executive Order 12372, as amended by Executive Order 12416, relating to Federal agencies providing opportunities for consultation with State and local elected officials on proposed Federal financial assistance or direct Federal development.

(Catalog of Federal Domestic Assistance: Program No. 96.007, Social Security-Research and Demonstration)

Dated: May 7, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

[FR Doc. 98–12962 Filed 5–14–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice #2815]

Overseas Schools Advisory Council; Notice of Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Annual Meeting on Thursday, June 18, 1998, at 9:30 a.m. in Conference Room 6320, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas which are assisted by the Department of State and which are attended by dependents of U.S. government families and children of employees of U.S. corporations and foundations abroad.

This meeting will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. Access to the State Department is controlled, and individual building passes are required for each attendee. Persons who plan to attend should so advise the office of Dr. Keith D. Miller, Department of State, Office of Overseas Schools, SA–29, Room 245, Washington, DC 20522–2902, telephone 703–875–7800, prior to June 7, 1998. Visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting. All attendees must use the C Street entrance to the building.

Dated: May 6, 1998.

Keith D. Miller,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 98–12945 Filed 5–14–98; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF STATE

[Public Notice No. 2817]

Secretary of State's Advisory Committee on Private International Law (ACPIL) International Project Finance: Request for Public Comments

The United Nations Commission on International Trade Law (UNCITRAL) is in the process of preparing a "Legislative Guide" for countries to use as a basis for legislation or otherwise, so as to provide enabling authority for infrastructure projects to be privately financed in whole or in part, and to allow private sector development and operation, often for a fixed period of years. Legislation in this field often

seeks to accommodate foreign as well as domestic interests, providing a balance of interests compatible with foreign source capital and management as well as national needs for infrastructure and services delivery. UNCITRAL will consider, at its upcoming Plenary session in June at the United Nations in New York, a draft of six of the approximately twelve chapters currently planned for the Legislative Guide.

The proposed Legislative Guide will include evolving methods by which private and public financing and private sector development and management are employed for long-term infrastructure projects, including build-and-operate (BOT and BOO) and other models. Legislative options to facilitate project design, development and operation, as well as project country regulation and off-shore payment facilities will be considered for inclusion in the Guide.

The Guide will seek to take into account current developments in legal issues involved in overseas project finance, including those at the world Bank, the Inter-American Development Bank, and other international financial institutions, as well as domestic systems. New methods of obtaining longer-term assurances not dependent on recourse to governmental agencies will be considered, including, for example, long-term receivables financing and special purpose corporations. These mechanisms will need to be balanced with appropriate methods for project countries to ensure delivery of services, utilities, construction, etc. It is tentatively proposed that the Guide be organized into sections on general legislative provisions; sector structure and regulation; concessionaire selection; project agreement terms and conclusion; government support; construction phase; operational phase; delays, defects and failures to perform; duration, extension or early termination; governing laws; and settlement of disputes. Additional sections may be added or the present structure modified after review. Initial drafts of the first six chapters are now available for comment.

Comments on these drafts are solicited from any member of the public or any association or other entity that would like the opportunity to do so. Copies of the UNCITRAL draft documents will be provided without charge upon request to the office indicated below. While preliminary comments are welcome prior to June 1, a summary of recommendations made by various participating countries at the Plenary session will be available from the office indicated below after June 20, 1998 upon request, and comments made after that date should take those recommendations into account.

Please contact the Office of the Assistant Legal Adviser for Private International Law (L/PIL) for copies of the relevant UNCITRAL documents at 2430 "E" Street, N.W., Suite 357 South Building, Washington, D.C. 20037–2800, or by fax to (202) 776–8482, or e-mail at pildb@his.com, attention Jeffrey D. Kovar. Documents can be provided by e-mail if requested. For additional information please call (202) 776–8420. Any member of the public who wishes to receive notice of any meetings of the Advisory Committee on this topic should so indicate; meetings of the Advisory Committee are open to the public.

Harold S. Burman,

Executive Director, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 98–12938 Filed 5–14–98; 8:45 am]

BILLING CODE 4710–08–M

DEPARTMENT OF STATE

[Public Notice #2818]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea and Associated Bodies Working Group on Stability and Load Lines and on Fishing Vessels Safety; Notice of Meeting

The Working Group on Stability and Load Lines and on Fishing Vessels Safety of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9 a.m. on Monday, June 15, 1998, in room 6103, at U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593–0001. This meeting will discuss the upcoming 42nd Session of the Subcommittee on stability and Load Lines and on Fishing Vessels Safety (SLF) and associated bodies of the International Maritime Organization (IMO) which will be held on February 8–12, 1999, at the IMO Headquarters in London, England.

Items of discussion will include the following:

a. Review of results from SLF 41,
b. Harmonization of damage stability provisions in the IMO instruments,
c. Safety aspects of ships engaged in a ballast water exchange,
d. Revision of the High Speed Craft Code,
e. Development of the damage consequence diagrams for inclusion in damage control plan guidelines, and
f. Upcoming requirements and future actions with respect to Bulk Carrier Safety—results of SOLAS Conference and MSC 69.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Mr. Paul Cojeen, U.S. Coast Guard Headquarters, Commandant (G–MSE–2), Room 1308, 2100 Second Street, SW, Washington, DC 20593–0001 or by calling (202) 267–2988.

Dated: May 11, 1998.

Stephen M. Miller,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 98–12946 Filed 5–14–98; 8:45 am]

BILLING CODE 4710–24–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Negotiation of Sectoral Market Opening Agreements

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of negotiation of sectoral market opening agreements, and of goods and services that might be affected by such negotiations.

SUMMARY: The United States is participating in discussions with member economies of the Asia Pacific Economic Cooperation (APEC) forum and negotiations with Members of the World Trade Organization (WTO) to enhance market opening in fifteen sectors, including possible elimination, modification or continuance of U.S. tariffs and non-tariff measures, opening of certain service sectors; and certain other sectoral and structural issues. Public comment is being sought on issues associated with these discussions and negotiations.

FOR FURTHER INFORMATION CONTACT: Jane C. Earley, Director, APEC Affairs, Office of Asia Pacific and APEC, USTR (202–395–6813).

SUPPLEMENTARY INFORMATION: In their 1996 Subic Bay Declaration, APEC Leaders directed trade ministers to identify sectors where "early voluntary liberalization would have a positive impact on trade, investment and economic growth in the individual APEC economies as well as the region." In May 1997, APEC trade ministers affirmed that APEC should continue to act as a catalyst to promote the global opening of markets, as it had with the Information Technology Agreement. They therefore directed officials to conduct an intensive process for selecting such sectors, for review and final action by the time of the APEC

ministers and leaders meetings in November 1977. In selecting such sectors, ministers instructed officials to have regard for three factors: the possibility of encompassing both tariff and non-tariff issues, as well as elements of facilitation and economic and technical cooperation; ensuring the fullest possible private sector input and support; and consideration of "critical mass" by developing initiatives supported by significant groups of APEC members, and where appropriate for incorporation in the WTO.

In November 1997, APEC ministers received information on over 40 potential sectors that had been proposed and reviewed by officials. From this list, ministers recommended 15 sectors to APEC leaders for a program of early liberalization. The proposals for liberalization in these sectors are described in detail in the Annex to this notice.

Of the 15 selected sectors, ministers identified nine for early action in 1998: Environmental goods and services, chemicals, energy, medical equipment, forest products, fish and fish products, toys, gems and jewelry, and conclusion of a mutual recognition agreement on telecommunications. In these nine sectors, it was agreed that detailed proposals defining parameters, such as scope of product coverage, phasing of liberalization, and measures covered (i.e., tariffs and/or other measures) would be completed by the date of the APEC trade ministerial meeting in June 1998, with a view toward beginning implementation, in the WTO context where appropriate, in 1999. In addition, ministers directed that work to develop proposals proceed in six additional sectors: oilseeds and oilseed products, food, automotive, civil aircraft, fertilizer, and natural and synthetic rubber. In these sectors, officials were directed to further develop proposals for review and assessment by ministers at the June trade ministers meeting, for possible recommendation to leaders in November 1998.

In accordance with this guidance, APEC officials will work intensively in 1998 to complete plans for early liberalization in the identified sectors. APEC officials meetings are currently scheduled for June, September and November 1998 in Malaysia.

Advice From the U.S. International Trade Commission

On March 18, 1998, the United States Trade Representative (USTR) requested, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g), that the U.S., International Trade Commission (USITC) provide advice concerning trade liberalization among APEC countries in the nine sectors listed above. On March 25, the USITC initiated an investigation, Inv. No. 332–392, pursuant to section 332(g) of the Tariff Act of 1930 and published a notice requesting public comment and providing notice of a public hearing in connection with the investigation. (63 FR 15861, April 1, 1998). The notice included a list of harmonized tariff system (HTS) numbers that comprise goods under consideration in the nine sectors. The USITC's report will include (1) profiles of the industry sectors (including a description of U.S. and foreign sectors and their competitive positions); (2) an assessment of patterns of U.S. sector imports and exports to APEC trading partners and other trading partners; (3) summaries of U.S. and foreign tariff rates and reported non-tariff barriers affecting the sectors; and (4) information about increased market access opportunities resulting from liberalization. The USITC plans to transmit its report to USTR by June 16, 1998.

Public Comments

In conformity with the regulations of the Trade Policy Staff Committee ("TPSC") (15 CFR Part 2003), the Chairman of the TPSC invites written comments from interested persons on the desirability, the scope, and the economic effects of these proposals for sectoral liberalization. Comments in particular are invited on: (a) Economic costs and benefits to U.S. producers and consumers of the removal of tariff barriers to trade between and among APEC economies in the above-listed product and service sectors; (b) economic effects and benefits to U.S. producers and consumers of removal of non-tariff barriers to trade between and among APEC economies, and of other aspects of the above-described proposals, including their provisions for economic and technical cooperation, (c) existing barriers to trade in services between and among APEC economies, and economic costs and benefits to removing such barriers; and (d) any other measures of practice within these sectors among APEC economies that should be addressed in sectoral market opening negotiations. In addition, comments are invited on other aspects of these sectoral market opening initiatives, including the possible labor and environmental effects.

Interested persons may submit written comments, in five (5) typed copies or less, no later than noon, June 15, 1998, to Gloria Blue, Executive Secretary, TPSC, Office of the U.S. Trade Representative, Room 503, 600 17th Street, N.W., Washington, D.C. 20508. Comments should state clearly the position taken and should describe with particularity the information supporting that position. Any business confidential material must be clearly marked as such on the cover page (or letter) and succeeding pages. Such submissions must be accompanied by a non-confidential summary thereof.

Non-confidential submissions will be available for public inspection at the USTR Reading Room, Room 101, Office of the United States Trade Representative, 600 Seventeenth Street, N.W., Washington, D.C. An appointment to review the file may be made by calling Brenda Webb at 202–395–6186. The Reading Room is open to the public by appointment only from 9:30 a.m. to 12:00 noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.

Annex—Description of Sectoral Market Opening Initiatives

Environmental Goods and Services: Elimination of tariffs on environmental goods and liberalization of trade in environmental Services based on the General Agreement on Trade in Services, to be agreed by consensus by June 1998, and to be bound in the WTO. Implementation of commitments would begin six months after the date on which the agreement is concluded. A proposal for addressing non-tariff measures in APEC economies that impede trade will be included. On economic and technical cooperation, economies are encouraged to develop proposals for projects such as seminars to achieve the objective of liberalizing trade.

Medical Equipment. Tariffs would be eliminated in a short period, e.g., 3 years. Proposed schedule and method of implementation would be based on the approach of the Information Technology Agreement. Specific non-tariff measures would be identified and addressed. Economies would be prepared to explore a program of technical assistance in cooperation with the private sector.

Forest Products. Includes pulp and paper products (HS Chapters 47 and 48), wood products (HS Chapter 44), printed materials (HS Chapter 49); wood furniture and pre-fabricated housing (parts of HS Chapter 94), certain vegetable and rattan mats and baskets (parts of HS Chapter 46), and certain rosin products (parts of HS Chapter 38). The proposal has four components: elimination of tariffs on theses products in the 2000–2004 timeframe; a study of

non-tariff barriers and other trade distorting policies which may impeded market access in these products; development and adoption of performance-based building standards; and, development of economic and technical assistance measures designed to enable members to develop their industries and to achieve early trade liberation in these industries.

Fish and Fish Products. The objective of the proposal would be to eliminate tariffs no later than December 31, 2005. Tariffs currently applied at 20% or less would be phased out more quickly. There would also be flexibility for economies to phase out tariffs over a longer period on a limited number of products. Officials would be directed to present a plan for eliminating non-tariff measures for approval at the APEC's November 1998 Trade Ministerial meeting, with the objective of eliminating non-tariff measures no later than December 31, 2007. APEC economies would recommit to elimination of WorldTrade Organization (WTO)-inconsistent subsidies and sanitary and phytosanitary measures, of which there would also be studies, and commit to some of many suggested ecotech proposal. An annual report to Ministers would also be done within APEC on fisheries management cooperation in the Pacific Ocean, and adjacent regions.

Toys. The proposal is for progressive reduction of tariffs on targeted, toys, beginning from 1998 and completed by a date to be determined by participating economies (2000, and no later than 2005). It would comment to identification of existing technical, regulatory, and other unnecessary non-tariff measures by the end of 1998 and to consultation on actions and a scheduled for elimination of NOMS by the end of 1999. Progressive elimination of all identified non-tariff measures would be determined, preferably by 2000 and no later than 2005.

Gems and Jewelry. This proposal would reduce tariffs to 0–5% by 2005 on products in HTS Chapter 71m, which includes pearls, diamonds, precious stones, silver, gold, platinum, "fine" jewelry, silverware made of silver and silver plate, gold articles, imitation jewelry, and commemorative coins. The proposal would also address non-tariff measures in the same time period and include economic and technical cooperation on education and training.

Mutual Recognition Agreement for Telecommunications servicers. Proposes that interested APEC economies work to implement an Agreement for Mutual Recognition of Test Results and Certifications, and to complete work on a Mutual Recognition Agreement and Phase Agreements by June 1998.

Chemicals. This is a proposal for tariff liberalization, starting with a commitment to bring tariffs into conformity with rates established in the Uruguay Round Chemical Tariff Harmonization Agreement (CTHA) in two tranches: starting from applied rates, by 2001 for tariffs up to and including 10%, and by 2004 for tariffs over 10%, and to bring these rates in the WTO. Requests for longer staging would be considered for sensitive products. Once a critical mass has committed to the CTHA, further tariff liberalization would be undertaken starting with subsectors (e.g., fertilizer, cosmetics) where there is interest in moving ahead on an expedited basis. This process would lead to the eventual elimination of all chemical tariffs. Participants would initiate a work program on non-tariff measures. They would also compile a list of customs and regulatory barriers faced by chemical exporters to give to APEC's Committee on Customs Procedures for simplifying and harmonizing customs procedures and facilitating trade. The proposal would also task APEC's Investment Experts Group to undertake a review of investment policy and practices with respect to the chemical industry, which would be used to derive a list of liberalization options that could be selected either for individual action plans, or for collective action. It would additionally encourage economies to participate in international work already ongoing on chemical standards and testing. In cooperation with the private sector, it would develop a program of economic and technical assistance, including but not limited to workshops, seminars, and training activities.

Energy. This proposal includes certain primary energy commodities, electricity, energy products, technologies, services, and equipment. It would progressively remove tariffs on coal and gas and energy-related equipment by 2005, and identify and address existing technical, regulatory, and other non-tariff barriers, including standards and certification. It would establish a work program to identify and remove barriers to trade in services, to commence March 1998. Additionally it would review work of the APEC's Group of Experts on Government Procurement (GPEG) on principles of transparency in government procurement and work with GPEG in any areas where the generic elements and principles of transparency need to be developed to ensure full transparency in this sector. Finally, it would extend the investment facilitation work of APEC's Energy Working Group and develop a linked database on mining and energy-related investment opportunities, and reduce costs through cooperation on energy standards between 1998 and 2000.

Autos. This proposal calls for a four part work program aimed at establishing a more integrated and competitive auto industry in the region: (1) Standards harmonization, including obtaining APEC endorsement of the "global agreement" on automotive standards; (2) identification of customs issues and barriers, and development of steps to address them; (3) development of an economic and technical cooperation program; and (4) establishment of a regional dialogue of automotive issues, which would discuss trade and investment policy issues, and develop means of addressing them. Industry would participate in parts of the dialogue.

Food. The proposal calls for tariff reductions on a number of 4-digit H.T.S. categories in three food subsectors (fresh fruits and vegetables, processed foods and beverages) and other trade facilitation and ecotech activities, as well as market research studies. The proposal calls for tariff reductions on more than 50 H.T.S. 4-digit categories in three food subsectors: (1) fresh fruits and vegetables; (2) processed foods; and (3) beverages. The initiative proposes a reduction in tariff and other non-tariff measures from 1999 to 2004 to bring applied tariffs to 5% or less by 2004 with the aim of eliminating all tariffs in these subsectors by 1010/2020. An annex contains some additional H.T.S. categories of food products for possible future consideration.

Oilseeds and Oilseed Products. During the Uruguay Round, the United States proposed a "level playing field" initiative on oilseeds and oilseed products. The APEC proposal, which is jointly sponsored by the United States, Canada and Malaysia, exactly tracks this Uruguay Round initiative. The proposal covers basic oilseeds in H.S. 1201, 1203–1207 (e.g., soybeans, rapeseed, sunflowerseed, cottonseed), meals and vegetable oils derived from those rapeseed oil, safflower oil) and soy protein concentrates and isolates. There would be no exceptions on product coverage. The proposal calls for elimination of tariffs, non-tariff measures, export subsidies and other trade-distorting policies on all products by 2002, allowing for limited flexibility for extended staging on a product-by-product, economy-by-economy basis that would be agreed to by consensus of participants.

Rubber. The proposal would establish details for gradual reductions and/or

elimination of tariff and non-tariff measures. It would also call for economic and technical cooperation to cooperate in the development of domestic industries in rubber-producing economies through the transfer of production and manufacturing technology in order to reduce the risk of price fluctuations.

Civil Aircraft. All tariffs would be eliminated in two equal cuts on January 1, 1999 and January 1, 2000 and bound in WTO Schedules at zero. Commitments by non-WTO members could be made on an autonomous basis until WTO accession is complete. There would also be commitments by APEC economies to eliminate all customs duties and other charges of any kind levied on civil aircraft and related products and services (e.g., manufacture, repair, maintenance, etc.).

Fertilizer. This is a proposal to eliminate tariffs by 2002 and bind them in the WTO. It would also call for, by January 1, 2000, collective implementation of national transportation regulations governing the shipment of sulfur and fertilizers in accordance with the International Maritime Dangerous Goods Code, and encourage the development of technical assistance projects that would facilitate trade liberalization in this sector.

[FR Doc. 98–12908 Filed 5–14–98; 8:45 am]
BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3811]

Notice of Receipt of Petition for Decision That Nonconforming 1990–1993 Bentley Continental R Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1990–1993 Bentley Continental R passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1990–1993 Bentley Continental R passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 15, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Champagne Imports of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1990–1993 Bentley Continental R passenger cars are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1990–1993 Bentley Continental R passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1990–1993 Bentley Continental R passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1990–1993 Bentley Continental R passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1990–1993 Bentley Continental R passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . . .*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies that incorporate headlamps with DOT markings; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side

rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's side air bag and knee bolster with U.S.-model components. The petitioner states that the vehicles are equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button at both rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on non-U.S. certified 1990–1993 Bentley Continental R passenger cars must be reinforced to comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 11, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–13012 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3809]

Notice of Receipt of Petition for Decision That Nonconforming 1997–1998 Mercedes-Benz SLK Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1997–1998 Mercedes-Benz SLK passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1997–1998 Mercedes-Benz SLK passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 15, 1998.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Champagne Imports of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90–009) has petitioned NHTSA to decide whether 1997–1998 Mercedes-Benz SLK passenger cars are eligible for importation into the United States. The vehicles which Champagne believes are substantially similar are 1997–1998 Mercedes-Benz SLK passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer, Daimler-Benz, A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 1997–1998 Mercedes-Benz SLK passenger cars to their U.S. certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that non-U.S. certified 1997–1998 Mercedes-Benz SLK passenger cars, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 1997–1998 Mercedes-Benz SLK passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standards

Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that non-U.S. certified 1997–1998 Mercedes-Benz SLK passenger cars comply with the Bumper Standard found in 49 CFR Part 581 and with the Theft Prevention Standard found in 49 CFR Part 541.

Petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model headlamp assemblies that incorporate headlamps with DOT markings; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) replacement of the driver's and passenger's side air bags and knee bolsters with U.S.-model components if the vehicle is not so equipped. The petitioner states that the vehicles are equipped with combination lap and shoulder restraints that adjust by means of an automatic retractor and release by means of a single push button at both front designated seating positions, with combination lap and shoulder restraints that release by means of a single push button at both rear outboard designated seating positions, and with a lap belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicles to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 11, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–13013 Filed 5–14–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–98–3810]

Notice of Receipt of Petition for Decision That Nonconforming 1998 Mercedes-Benz Gelaendewagen, Type 463, Multi-Purpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Request for comments on petition for decision that nonconforming 1998 Mercedes-Benz Gelaendewagen Type 463 multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice requests comments on a petition submitted to the National Highway Traffic Safety Administration (NHTSA) for a decision that a 1998 Mercedes-Benz Gelaendewagen Type 463 MPV that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because it has safety features that comply with, or are capable of being altered to comply with, all such standards.

DATE: The closing date for comments on the petition is June 15, 1998.

ADDRESS: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 10 am to 5 pm].

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B)

permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register.**

Europa International, Inc. of Santa Fe, New Mexico (Registered Importer No. R–91–002) has petitioned NHTSA to decide whether 1998 Mercedes-Benz Gelaendewagen Type 463 MPVs are eligible for importation into the United States. Europa contends that this vehicle is eligible for importation under 49 U.S.C. § 30141(a)(1)(B) because it has safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Specifically, the petitioner claims that the 1998 Mercedes-Benz Gelaendewagen Type 463 MPV has safety features that comply with Standard Nos. 102 *Transmission Shift Lever Sequence* . . . . (based on visual inspection and operation), 103 *Defrosting and Defogging Systems* (based on visual inspection), 104 *Windshield Wiping and Washing Systems* (based on operation), 106 *Brake Hoses* (based on visual inspection of certification markings), 113 *Hood Latch Systems* (based on information in owner's manual describing operation of secondary latch mechanism), 116 *Brake Fluids* (based on visual inspection of certification markings and information in owner's manual describing fluids installed at factory), 119 *New Pneumatic Tires for Vehicles other than Passenger Cars* (based on visual inspection of certification markings), 124 *Accelerator Control Systems* (based on operation and comparison to U.S.-certified vehicles), 201 *Occupant Protection in Interior Impact* (based on test data and certification of vehicle to European standard), 202 *Head Restraints* (based on Standard No. 208 test data for prior model year vehicle with same head restraint and certification of vehicle to European standard), 204 *Steering Control Rearward Displacement* (based on test film for prior model year vehicle), 205 *Glazing Materials* (based on visual inspection of certification markings), 207 *Seating Systems,* (based on test results and certification of vehicle to European standard), 209 *Seat Belt Assemblies* (based on wiring diagram of seat belt warning system and visual inspection of certification markings), 211 *Wheel Nuts, Wheel Discs and Hubcaps* (based on visual inspection), 214 *Side Impact Protection* (based on test results for prior model year vehicle), and 219 *Windshield Zone Intrusion* (based on test results and certification information for prior model year vehicle).

The petitioner also contends that the 1998 Mercedes-Benz Gelaendewagen Type 463 MPV is capable of being altered to comply with the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a speedometer/odometer calibrated in miles per hour.

Standard No. 105 *Hydraulic Brake Systems:* (a) installation of a warning label on the brake fluid reservoir cap; (b) installation of a brake warning indicator lamp.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) installation of U.S.-model sealed beam headlamps; (b) installation of U.S.-model side marker lamps and reflectors; (c) installation of a high-mounted stop lamp. The petitioner asserts that testing performed on the taillamp reveals that it complies with the standard, even though it lacks a DOT certification marking, and that all other lights are DOT certified.

Standard No. 111 *Rearview Mirrors:* inscription of the required warning statement on the convex surface of the passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 118 *Power-Operated Window Systems:* rewiring of the power window system so that the window transport is inoperative when the front doors are open.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars:* installation of a tire information placard. The petitioner asserts that even though the tire rims lack a DOT certification marking, they comply with the standard, based on their manufacturer's certification that they comply with the German TUV regulations, as well as their certification by the British Standards Association and the Rim Association of Australia.

Standard No. 206 *Door Locks and Door Retention Components:* installation of interior locking buttons on all door locks and modification of rear door locks to disable latch release controls when locking mechanism is engaged.

Standard No. 208 *Occupant Crash Protection:* (a) installation of complying driver's and passenger's side air bag systems; (b) installation of a seat belt warning system; (c) placement of an air bag warning label on the visors of vehicles manufactured after November 1996. The petitioner states that the vehicle will meet frontal impact test requirements with structural modifications described in a submission that has been granted confidentiality by NHTSA's Office of Chief Counsel under 49 CFR Part 512.

Standard No. 210 *Seat Belt Assembly Anchorages:* insertion of instructions on the installation and use of child restraints in the owner's manual for the vehicle. The petitioner certifies that the vehicle complies with this standard on the basis of tests performed to the standard's requirements by an independent testing and engineering laboratory.

Standard No. 212 *Windshield Retention:* application of cement to the windshield's edges.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve. The petitioner further claims to have verified that the gas tank on a prior model year vehicle was completely protected within large frame members.

Standard No. 302 *Flammability of Interior Materials:* treatment of fabric seating surfaces with a flame-proof spray. The petitioner additionally states that a vehicle identification number (VIN) plate must be attached to the vehicle's dash so that it is visible to an observer at the driver's side "A" pillar, as required by 49 CFR Part 565. The petitioner also states that a vehicle rollover warning statement must be inserted in the owner's manual and on a sticker affixed to the driver's side visor of short wheelbase Gelaendewagens, as required by 49 CFR 575.105.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL–401, 400 Seventh St., SW, Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the

docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on May 11, 1998.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 98–13014 Filed 5–14–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33589]

Gulf & Ohio Railways Holding Co., inc.—Continuance in Control Exemption—Knoxville & Holston River Railroad Co., inc.

Gulf & Ohio Railways Holding Co., Inc. has filed a notice of exemption to continue in control of the Knoxville & Holston River Railroad Co., Inc. (KHRR), upon KHRR's becoming a Class III railroad.

The transaction is/was scheduled to be consummated on or after May 7, 1998.

This transaction is related to STB Finance Docket No. 33588, *Knoxville & Holston River Railroad Co., Inc.—Acquisition and Operation Exemption—Norfolk Southern Railway Company,* wherein KHRR seeks to acquire and operate 2 lines of track and incidental overhead trackage rights from the Norfolk Southern Railway Company.

Applicant controls eight existing Class III railroads: Albany Bridge Company, operating in the State of Georgia; Georgia & Florida Railroad Co., Inc., operating in the States of Georgia and Florida; Gulf & Ohio Railways, Inc.,[1] operating in the State of Mississippi and Georgia; Lexington & Ohio Railroad Co., Inc., operating in the State of Kentucky; Live Oak, Perry & Georgia Railroad Company, Inc., operating in the States of Georgia and Florida; Piedmont & Atlantic Railroad, Inc., operating in the State of North Carolina; Rocky Mount & Western Railroad Co., Inc., operating in the State of North Carolina; and Wiregrass Central Railroad Company, Inc., operating in the State of Alabama.

Applicant states that: (i) the rail lines to be operated by KHRR do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect KHRR's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33589, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Jo A. DeRoche, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, N.W., Suite 800, Washington, DC 20005–4797.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–12694 Filed 5–13–98; 8:45 am]

BILLING CODE 4915–00–P

[1] Gulf & Ohio Railways, Inc., operates in the State of Mississippi under the trade name of Mississippi Delta Railroad and in the State of Georgia under the trade name of Atlantic & Gulf Railroad.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33588]

Knoxville & Holston River Railroad Co., Inc.—Acquisition and Operation Exemption—Norfolk Southern Railway Company

Knoxville & Holston River Railroad Co., Inc. (KHRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Norfolk Southern Railway Company (NS) and operate 2 lines of track in the State of Tennessee as follows: (1) the North Belt/River Extension, extending from milepost 67.1CG (former) = 0.4RFE, in Knoxville, to the end of the line in Marbledale, a distance of approximately 15.18 miles; and (2) the K&A Belt (formerly the South Knoxville Spur), extending from milepost 0.1, in Knoxville, to the end of the line, also in Knoxville, a distance of approximately 3.8 miles. In addition, KHRR will also acquire incidental overhead trackage rights on 4 segments of NS's trackage in Knoxville as follows: (1) from milepost 0.0C to milepost 3.0C; (2) from milepost 130.0A to milepost 132.4A; (3) from milepost 0.0KA to milepost 1.1KA; and (4) approximately 0.1-mile between NS's K&A Line and its K&A Belt.

The transaction is scheduled to be consummated on or after May 7, 1998.

This transaction is related to STB Finance Docket No. 33589, *Gulf & Ohio Railways Holding Co., Inc.—Continuance in Control Exemption—Knoxville & Hoston River Railroad Co., Inc.,* wherein Gulf & Ohio Railways Holding Co., Inc. has concurrently filed a verified notice to continue in control of KHRR upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33588, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Jo A. DeRoche, Esq., Weiner, Brodsky, Sidman & Kider, P.C., 1350 New York Avenue, NW., Suite 800, Washington, DC 20005–4797.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–12695 Filed 5–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33592]

Providence and Worcester Railroad Company—Corporate Family Transaction Exemption—Connecticut Central Railroad Company

Providence and Worcester Railroad Company (P&W) and Connecticut Central Railroad Company (CCCL),[1] Class III railroads, have jointly filed a verified notice of exemption. The exempt transaction is a merger of CCCL into P&W.

The earliest the transaction can be consummated is May 12, 1998, the effective date of the exemption (7 days after the notice of exemption was filed).

The proposed merger is intended to provide more efficient service to shippers. Moreover, because of P&W's multiple connections to other carriers, it can provide customers on CCCL's lines with price and source competition not previously enjoyed by them.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

[1] CCCL is a wholly owned subsidiary of P&W. CCCL operates in the State of Connecticut, and P&W operates in the States of Connecticut, Massachusetts, Rhode Island and New York.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33592, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Heidi J. Eddins, Esq., Providence and Worcester Railroad Company, 75 Hammond Street, Worcester, MA 01610.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: May 8, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–12819 Filed 5–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–103 (Sub–No. 13X)]

The Kansas City Southern Railway Company—Abandonment Exemption—in Webster Parish, LA

The Kansas City Southern Railway Company (KCS) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.70-mile line of its railroad between milepost 46.78 at the Arkansas-Louisiana State Line and milepost 48.48 approximately 200 feet south of Vine Street in Springhill, Webster Parish, LA. The line traverses United States Postal Service Zip Code 71075.

KCS has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment and discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 14, 1998, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 26, 1998. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 4, 1998, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas F. McFarland, Jr., McFarland & Herman, 20 North Wacker Drive, Suite, 1330, Chicago, IL 60606–2902.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

KCS has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 20, 1998. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), KCS shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by KCS's filing of a notice of consummation by May 15, 1999, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: May 6, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–12693 Filed 5–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 13–20]

Delegation of Responsibilities Relating to the Transfer of the District of Columbia Pension Systems

May 7, 1998.

1. Purpose

Pursuant to the National Capital Revitalization and Self-Government Improvement Act of 1997 (the "Act"), certain responsibilities with respect to the pension systems for District of Columbia police officers and firefighters, teachers, and judges are being transferred to the Secretary of the Treasury. The purpose of this Directive is to define administrative functions which are within the scope of duties of the Treasury project manager for the transfer of the District of Columbia pension systems ("DC Pensions Project Manager") and to delegate the authority necessary to carry out these functions to the DC Pensions Project Manager.

2. Delegation

a. The DC Pensions Project Manager is delegated the authority to: (1) Request transfers from the District Retirement Fund pursuant to the Act to cover administrative expenses; (2) serve as the program official to execute reimbursable agreements with Treasury bureaus and other government agencies for providing services, including detailing staff to the project; (3) approve requisitions for procuring goods and services; (4) approve personnel actions; (5) coordinate with the Bureau of Public Debt on operational issues related to the District of Columbia Pension Trust Funds. The DC Pensions Project Manager shall exercise these authorities only after appropriate consultation with the Assistant Secretary (Financial Markets).

b. This delegation will expedite the performance of the administrative functions necessary to fulfill Treasury's responsibilities under the Act for the DC pension programs. Accordingly, the delegation of authority to perform the listed functions shall be interpreted as broadly as necessary to enable the DC Pensions Project Manager to carry out administrative duties associated with the District of Columbia pension project without impediment.

c. Functions which require the obligation of funds or certification that funds are available shall be coordinated in the usual manner with the Financial Management Division, Departmental Offices.

3. Redelegation

The authority delegated herein to the DC Pensions Project Manager may not be redelegated. However, this authority shall transfer, as appropriate, to any official who subsequently may assume the responsibilities of DC Pensions Project Manager.

4. Authorities

a. TO 101–05, "Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury."

b. The National Capital Revitalization and Self-Government Improvement Act of 1997, Title XI of Pub. L. 105–33 (111 Stat. 251, 712).

5. Reference

Memorandum to Under Secretary (Domestic Finance) from Assistant Secretary for Management and Chief Financial Officer dated October 22, 1997.

6. Expiration

This Directive shall expire three years after the date of issuance unless superseded or cancelled prior to that date.

7. Office of Primary Interest

Office of the Assistant Secretary (Financial Markets).

Gary Gensler,

Assistant Secretary (Financial Markets).

[FR Doc. 98–12913 Filed 5–14–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of extension of application deadline.

SUMMARY: The Community Development Financial Institutions Fund (hereafter referred to as the "Fund") published a notice of funds availability ("NOFA") for the Community Development Financial Institutions ("CDFI") Program technical assistance ("TA") component (63 FR 13729) and is extending the application deadline for the CDFI Program TA component from May 29, 1998 to June 11, 1998.

DATES: The application deadline for the CDFI Program TA component is extended from May 29, 1998 to June 11, 1998. The deadline for receipt of an application is 6 p.m. EDT on June 11, 1998. Applications received in the offices of the Fund after that date and time will not be accepted and will be returned to the sender. Applications sent electronically or by facsimile will not be accepted.

ADDRESSES: Applications shall be sent to: Awards Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Technical Assistance Program Manager, Community Development Financial Institutions Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005, (202) 622–8662. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On March 20, 1998, the Fund published a NOFA for the CDFI Program TA component (63 FR 13729) and a separate NOFA for the CDFI Program core component (63 FR 13728). The CDFI Program TA component NOFA announced the availability of $5 million for program awards and specified an application deadline of May 29, 1998. The CDFI Program core component NOFA announced the availability of $40 million for program awards and specified an application deadline of June 12, 1998.

This Notice extends the application deadline for the CDFI Program TA component from May 29, 1998 to June 11, 1998. However, the application deadline for the CDFI core component remains June 12, 1998. All applications

must be received in the offices of the Fund by 6 p.m. EDT on the respective application due dates.

The Fund is extending the application deadline for the CDFI Program TA component for the following reason. The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*) mandates that the Fund conduct a pre-application outreach program to identify and provide information to potential applicants. The Fund conducted pre-application outreach sessions in 12 cities (Atlanta, Boston, Chicago, Cleveland, Dallas, Houston, Los Angeles, Minneapolis, New York, St. Louis, San Francisco, and Washington, DC) in the form of informational workshops about both the CDFI Program TA component and core component. The workshops took place between April 27, 1998 and May 11, 1998. Interested parties familiar with potential applicants to the CDFI Program TA component have advised the Fund that potential applicants need more time between attending the workshops and completing a CDFI Program TA component application. To ensure that potential applicants attending the workshop sessions have sufficient time to complete their CDFI Program TA component applications, the Fund is extending the application deadline to ensure a minimum of four weeks application preparation time from the date of the last workshop session.

Authority: 12 U.S.C. 4703, 4703 note, 4704, 4706, 4707, 4718; 12 CFR part 1805.

Dated: May 12, 1998.

Ellen Lazar,

Director, Community Development Financial Institutions Fund.

[FR Doc. 98–13019 Filed 5–14–98; 8:45 am]

BILLING CODE 4810–70–P

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

Sunshine Act Meeting

The Board of Trustees of the Morris K. Udall Scholarship & Excellence in National Environmental Policy Foundation will hold a meeting beginning at 9:00 a.m. on Thursday, June 18, 1998, at the office of Bracy Williams & Co., 601 13th Street NW, Ste. 900 South, Washington, D.C.

The matters to be considered will include (1) A report on the U. S., Institute of Environmental Conflict Resolution; and (2) A report from the Udall Center for Studies and Public Policy. The meeting is open to the public.

Contact Person for More Information: Christopher L. Helms, 803 East First Street, Tucson, AZ 85719. Telephone: (520) 670–5523.

Dated this 11th day of May, 1998.

Christopher L. Helms,

Director.

[FR Doc. 98–13082 Filed 5–13–98; 11:44 am]

BILLING CODE 6820–FN–M

federal register

Friday
May 15, 1998

Part II

Department of Transportation

Federal Highway Administration

49 CFR Parts 375 and 377
Transportation of Household Goods; Consumer Protection Regulations; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 375 and 377

[Docket No. FHWA–97–2979]

RIN 2125–AE30

Transportation of Household Goods; Consumer Protection Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to amend the regulations governing the transportation of household goods. These regulations protect consumers who ship household goods by motor vehicle. This action is necessary to implement the ICC Termination Act of 1995 (ICCTA) and to update the regulations. This proposal would make the regulations easier to read and understand, require household goods carriers to file an annual arbitration report in place of the outdated annual performance report, address hostage freight problems, modify a consumer protection publication, and make conforming and technical amendments.

DATES: Comments to this NPRM should be received no later than July 14, 1998. Late comments will be considered to the extent practicable.

ADDRESSES: Signed, written comments should refer to the docket number appearing at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Vining, Chief, Licensing and Insurance Division (HIA–30), Office of Motor Carrier Information Analysis, (202) 358–7055, Mr. Michael Falk, Motor Carrier Law Division, Office of the Chief Counsel (HCC–20), (202) 366–1384, or Mr. David Miller, Office of Motor Carrier Research and Standards (HCS–10), (202) 366–1790, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions on-line for more information and help.

You may download an electronic copy of this document using a personal computer, modem, and suitable communications software from the **Federal Register** Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at URL: http://www.nara.gov/nara/fedreg and at the Government Printing Office's databases at URL: http://www.access.gpo.gov/su_docs.

Background

Many customers of household goods carriers, particularly those customers who move at their own expense and are infrequent users of transportation services, are unsophisticated and less able to protect themselves than commercial shippers. In order to ensure these consumers are protected, the Interstate Commerce Commission (ICC) prescribed regulations governing the transportation of household goods. These regulations were codified at 49 CFR Part 1056.

Following the termination of the ICC, the responsibility for the household goods regulations was delegated to the Secretary of Transportation pursuant to the ICCTA, Pub. L. 104–88, 109 Stat. 803, effective January 1, 1996. The Surface Transportation Board (STB) and the FHWA transferred these regulations from 49 CFR chapter X, Part 1056 to 49 CFR chapter III, Part 375 on October 21, 1996. See 61 FR 54706. On December 27, 1996 (61 FR 68162), the Secretary of Transportation delegated to the Federal Highway Administrator the responsibilities to carry out certain functions and exercise the authority vested in the Secretary under the ICCTA, including 49 U.S.C. 14104, Household goods carrier operations.

In a report to Congress dated October 24, 1994, the ICC reported it received over 8,000 complaints from household goods shippers between October 1, 1992, and August 25, 1994. Since January 1, 1996, the FHWA has also received a high volume of complaints from household goods shippers. The FHWA believes regulations designed to protect this large population of unsophisticated shippers continue to be necessary.

Enactment of the ICCTA requires deletion from the regulations of all references to the former ICC and repealed sections of the Interstate Commerce Act, revision of the regulations to codify the transfer to the FHWA of oversight responsibilities for the household goods moving industry, and other editorial corrections. We are also redrafting all sections in a more reader-friendly style for clarity.

New Definition of Household Goods

Since the ICCTA changed the definition of "household goods" to eliminate office and trade show movements, it is no longer appropriate to include this kind of transportation within the scope of the household goods regulations. Therefore, we are making conforming changes to the definitions contained in 49 CFR 375.103.

Elimination of Former ICC Dispute Resolution Functions

The House of Representatives' report accompanying the ICCTA specifically requested that DOT refrain from allocating scarce resources to resolve private disputes, but only to oversee the regulations. Congress modified the arbitration system to afford consumers a forum for resolving loss and damage claims arising from transportation of household goods and to replace the informal dispute resolution functions conducted by the ICC without a statutory requirement. Congress wants "private, commercial disputes to be resolved the way all other commercial disputes are resolved— by the parties." See H.R. Rep. No. 104–311, at 87–88 (1995). See also pages 117 and 121.

Your Rights and Responsibilities When You Move

The FHWA is proposing to retain most of the former ICC's regulations, including the requirement for motor common carriers of household goods to copy or publish, and distribute a modified version of the ICC's consumer protection publication "Your Rights And Responsibilities When You Move." This modified publication would provide shippers of household goods the same type of common consumer protection information previously required by the ICC. Prior to contracting with an individual shipper, a motor common carrier of property transporting household goods would be required to provide the individual shipper with the booklet explaining the individual shipper's rights and responsibilities under Federal law. The rights and responsibilities booklet basically restates in plain, common English a household goods carrier's obligation to follow specifically 49 CFR Parts 375 and

377, and generally other regulations for all motor carriers.

The FHWA proposes to print the entire revised text of the "Your Rights and Responsibilities When You Move" booklet in appendix A to 49 CFR 375. Household goods carriers would furnish the text of appendix A to their customers. The large number of household goods carriers located throughout the country would ensure appendix A is readily available to any individual who contracts with a household goods carrier.

Discontinuance of Annual Performance Reports

Under 49 CFR 375.18, household goods carriers were required to submit annual performance reports on Form OCE–101 containing 16 items regarding the number of shipments transported, the number and type of estimates provided, charges billed, timeliness of pickups and deliveries, and claims for loss and damage. The FHWA proposes to abolish this requirement. This is consistent with the intent of the Household Goods Transportation Act of 1980 (Pub. L. 96–454, 94 stat. 2011) and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) to minimize paperwork requirements on household goods carriers in a manner not compromising the protection of individual shippers. Despite the ICC's best efforts to ensure accurate reporting by requiring carrier certification of the reports, the FHWA is not convinced the performance data is reliable. Periodic audits would be necessary to ensure the performance information reported is accurate. Resources simply do not exist for such review of the carriers. Any value this information would be to the individual shipper would come from a comparative analysis of the data submitted by the carriers. However, requiring motor carriers to report comparative data the FHWA cannot verify is inherently unfair, especially to those carriers who scrupulously comply with the reporting requirements.

Notifying Shippers of Arbitration Procedures

The overwhelming majority of household goods complaints received by the ICC, and now the FHWA, involve loss and damage claims. The ICCTA imposes an arbitration requirement to handle such claims against all motor carriers providing transportation of household goods in interstate commerce. 49 U.S.C. 14708. The FHWA proposes to amend the former "information for shippers" section of the regulations, formerly 49 CFR 375.2 (proposed to be § 375.213), to replace the required summary of the carrier's dispute settlement program with a summary of the arbitration procedure.

Arbitration Program Review by the FHWA

The ICCTA also requires the FHWA to—

"complete a review of the dispute settlement program established under this section. If, after notice and opportunity for comment, the [FHWA] determines that changes are necessary to such a program to ensure the fair and equitable resolution of disputes under this section, the [FHWA must] implement such changes and transmit a report to Congress on such changes." 49 U.S.C. 14708(g).

The FHWA is reviewing the dispute settlement (arbitration) program established by 49 U.S.C. 14708. The FHWA would like comments from the public whether the arbitration program Congress mandated ensures fair and equitable resolution of disputes. If you believe the arbitration program fails to ensure fair and equitable resolutions of disputes, please provide specific comments why it does not and what you would change to make it more fair and equitable. The FHWA will consider these comments in determining whether changes must be made to the arbitration program.

Arbitration Results Report

The FHWA proposes to require all carriers who presently must file an annual performance report, to file in its place an "arbitration results report." This new report would list the motor carrier's arbitration requests and dispositions. Such a report would assist the FHWA in carrying out its statutory responsibility to report to Congress regarding the dispute settlement program, and to provide individual shippers with relevant claims handling information. This report will reduce the existing reporting burden on carriers and provide relevant information concerning the most common household goods shipper complaint, unsatisfactory settlement of loss and damage claims.

The FHWA also proposes to apply a modified version of the ICC's performance report certification requirement to the arbitration results report. The existing certification requires a verification under penalty of perjury and identifies 18 U.S.C. 1001 as the Federal criminal penalty applicable to false statements made in the report. This provision provides for penalties if carriers or their employees fail to make a truthful and accurate report to the Secretary of Transportation. In addition, the FHWA proposes to reference the civil penalty provisions under 49 U.S.C. 14901 by incorporating them into proposed § 375.1001. The FHWA believes arbitration data submitted by the carriers will be inherently more reliable than the performance-based data in the current reports because of the formal nature of the proceedings and the ability of the FHWA to easily spot check the reported results.

Hostage Freight

The FHWA has been receiving an increasing number of complaints from individual shippers who claim carriers refuse to deliver their goods after the individual shippers offer to pay 110 percent of the estimate as prescribed by 49 CFR 375.3(d). These so-called hostage freight situations defeat the protections of the 110-percent rule and cause serious inconvenience to individual shippers. The FHWA does not have the resources to seek court injunctions to require these carriers to comply with the regulations and release the household goods. The FHWA, therefore, proposes changes to enhance an individual shipper's claim for damages based upon expenses incurred as a result of the carrier's refusal to deliver the household goods, reduce the number of disputes contributing to delays in delivery, and restore price certainty to the transaction.

The FHWA proposes to include in § 375.407 language expressly providing that an individual shipper may assert a cargo delay claim in circumstances where a carrier fails to relinquish a shipment upon the shipper's offer to pay 110 percent of the non-binding estimate. The proviso would state any shipment deliberately withheld from delivery by a carrier after an individual shipper has offered to pay 110 percent of the estimate constitutes a failure to transport a shipment with reasonable dispatch. Thus, hostage freight situations could be the basis for cargo delay claims under 49 CFR part 370.

In addition, the FHWA proposes to require carriers provide each individual shipper a written estimate. The FHWA believes most carriers already provide estimates to individual shippers, though we have heard from individual shippers who allege an estimate was not provided. In many instances, individual shippers allege their carrier explained the price provided to the individual shipper was a "rate quote" but not an estimate.

The FHWA would not require the estimate be binding. The FHWA would continue to allow carriers to negotiate with individual shippers whether the estimated charges would be binding or non-binding upon the parties.

The regulations also would provide, in § 375.403, that a carrier transporting a shipment under a binding estimate reaffirms that estimate and waives any subsequent claims about additional transported items unless its objection is made at the time of pickup. Once the objection is made, the carrier would be required to execute a new binding or non-binding estimate.

Proposed Changes to the Credit Regulations

The American Movers Conference and the Household Goods Carrier's Bureau Committee filed a petition with the ICC on May 3, 1995, requesting an amendment to the credit regulations (now contained in 49 CFR 377.215) to prescribe an increased minimum service charge for the extension of credit. They also petitioned to require assessment of the service charge until the freight bill is paid. Ex Parte No. MC–1 (Sub-No.6), *Payment of Rates and Charges of Motor Carriers—Credit Regulations—Household Goods (Petition of American Movers Conference and Household Goods Carrier's Bureau To Amend Credit Regulations).* On March 26, 1996, the STB served a notice on the parties indicating the ICCTA transferred the regulatory function for the proceeding from the ICC to the Secretary of Transportation. The responsibility for considering such regulatory issues has been delegated to the FHWA. The American Movers Conference changed its name to the American Moving and Storage Association (AMSA) on January 1, 1998.

The household goods transportation regulations require carriers to present their freight bills within 15 days of date of delivery and provide for a credit period of 7 days (excluding weekends and legal holidays). The regulations further provide for the automatic extension of the prescribed 7-day credit period to a total of 30 calendar days for any shipper who has not paid the freight bill within the 7-day period. However, a service charge of one percent of the amount of the freight bill, subject to a minimum charge of $10.00, must be applied to the extended credit period. The Petitioners requested the ICC to amend this regulation to do both of the following two things:

(1) Increase the minimum service charge from $10.00 to $20.00; and

(2) Extend the one percent service charge to each 30-day period or fraction thereof after the initial credit period. The Petitioners noted that since the existing credit regulation does not assess any credit charge to shippers who have not paid the carrier's freight bill within the initial 30-day credit period, delinquent shippers thereafter obtain free credit indefinitely.

The ICC took no action on this petition. The FHWA will incorporate this petition in this rulemaking and discontinue Ex Parte No. MC–1 (Sub-No. 6). For purposes of this rulemaking, the FHWA proposes to adopt the above-described amendments to the credit regulations and solicits public comment regarding their propriety. The FHWA also proposes to move the credit regulations pertaining to household goods transportation from 49 CFR 377.215(c) to 49 CFR 375.807 for ease of reference.

On-Board Trailer Scales

The public has alerted the FHWA to a few motor carriers who have begun to use on-board trailer scales. These are generally non-certified scales and expressly prohibited. The FHWA believes their use is a violation of the former ICC's regulations. The FHWA is affirming the prohibited use of such on-board trailer scales.

The FHWA, however, solicits comments regarding the accuracy, reliability, and acceptability of such non-certified on-board trailer scales, preferably supported by scientific data.

The Maximum Threshold for Weighing Shipments Upon a Certified Platform or Warehouse Scale

The AMSA has asked the FHWA to consider amending § 375.7(a)(5) by raising the 454 kilogram (1,000 pound) maximum threshold requirement for weighing shipments upon a certified platform or warehouse scale. This threshold requirement has remained unchanged since 1939, when the ICC first allowed the practice of weighing small shipments on platform or warehouse scales rather than weighing the entire motor vehicle. See 17 M.C.C. 467.

The AMSA's October 1997 petition states average weights for private transferee C.O.D. household goods shipments have increased from 4,611 pounds in 1982 to 6,023 pounds today. The AMSA believes the industry now considers 1,362 kilograms or less (3,000 pounds or less) shipments to be small rather than 454 kilograms or less (1,000 pounds or less) shipments.

Although the rationale behind the 1,000 pounds weight threshold in § 375.7(a)(5) is unclear, it is possible that the ICC may have linked the 1,000 pounds weight threshold to tariff provisions assessing a minimum charge for shipments weighing less than 1,000 pounds.

The FHWA believes raising the limit to a higher maximum (i.e., 1,362 kilograms) might, in essence, allow movers to charge a minimum rate at the higher weight threshold when the shipment actually weighs less than the higher weight threshold. We are concerned that by adopting the AMSA's definition of a small shipment as one weighing 3,000 pounds or less (1,362 kilograms or less), we could be perceived as giving our blessing to an increase in the minimum rate threshold in household goods carriers' tariffs. The FHWA has no authority to approve or disapprove of household goods carriers' tariff charges. The statute gives this responsibility to the STB.

In addition, the FHWA believes that should an increase in the weight threshold result in higher minimum charges for small shipments, there may be a negative impact upon highway and motor carrier safety. Higher minimum charges might force individual shippers to reconsider using professional carriers to perform the transportation service. These individual shippers, who would otherwise ship their own household goods, might decide to save money by transporting their own household goods using rental trucks. The FHWA believes allowing more individual shippers to operate large, unfamiliar rental vehicles, would add more risks to highway safety than maintaining a lower weight threshold, thereby maintaining a lower minimum charge. The risks might include more accidents, near misses, and personal injuries due to carrying goods improperly or unsecured.

The FHWA would like comments about whether the FHWA should retain, raise, or lower the 454 kilogram maximum threshold. In your comments, please provide any historical background information you may have on this subject.

Replacement of the Term "Money Order"

The FHWA is proposing to replace the individual shipper's use of the term "money order" to pay for transportation of household goods with a much more general term, a "cashier's check." The FHWA proposes to use this term, as it is defined in 12 CFR 229.2(i).

This would allow individual shippers to use financial or depository institutions' official checking systems, or U.S. Postal Service money orders. The regulations at 12 CFR 229.2(k) define a money order as a check, too. Thus, an individual shipper could use a cashier's "money order." The FHWA believes the use of general money orders may compromise the individual shipper's financial safety during a time period when the individual shipper is at a greater risk of losing his ability to pay

for transportation charges. The FHWA believes the use of money orders, generally payable to the bearer, increases the risks of lost funds. The FHWA believes the use of a cashier's check (including a U.S. Postal Service money order) is much safer, allowing the check to be replaced more easily. The individual shipper might ask a financial institution (e.g., a State savings bank, a national bank, credit union, or savings association) or a U.S. Post Office to draw an official cashier's check for the transportation charges estimated and possibly another check for ten percent of the estimated charges, in case the shipment moves under a non-binding estimate and the resulting transportation charges are more than the non-binding estimate. The FHWA believes the use of the 12 CFR 229.2 definitions will provide consistency. This would eliminate possible duplicative and contradictory definitions of these common terms. The FHWA solicits comments regarding this change.

Order of the Proposed Regulations

The following table specifies the proposed section of each rule, the old section (if any) where the rule originated, and the title of the proposed section.

PART 375.—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE

Proposed section	Old section	Title of proposed section
SUBPART A—GENERAL REQUIREMENTS		
375.101	375.1(a)	Who must follow these regulations?
375.103	375.1(b)	What are the definitions of terms used in this part?
SUBPART B—BEFORE OFFERING SERVICES TO CUSTOMERS		
Liability Considerations		
375.201	375.12	What is my normal liability for loss and damage when I accept goods from an individual shipper?
375.203	What actions of an individual shipper may limit or reduce my normal liability?.	
375.12		
General Responsibilities		
375.205	375.14	May I have agents?
375.207	375.17	What items must be in my advertisements?
375.209	375.13	How must I handle complaints and inquiries?
375.211	None	Must I have an arbitration program?
375.213	375.2	What information must I provide to a prospective individual shipper?
Collecting Transportation Charges		
375.215	373, subpart A	How must I collect charges?
375.217	377, subpart A	May I collect charges upon delivery?
375.219	377.215(a) and (b)	May I extend credit to shippers?
375.221	375.19	May I use a charge card plan for payments?
SUBPART C—SERVICE OPTIONS PROVIDED		
375.301	None	What service options may I provide?
375.303	375.11	If I sell excess liability insurance coverage, what must I do?
SUBPART D—ESTIMATING CHARGES		
375.401	None	Must I estimate charges?
375.403	375.3	How must I provide a binding estimate?
375.405	375.3	How must I provide a non-binding estimate?
375.407	375.3	Under what circumstances must I relinquish possession of a collect-on-delivery shipment transported under a non-binding estimate?
SUBPART E—PICK UP OF SHIPMENTS OF HOUSEHOLD GOODS		
Before Loading		
375.501	375.5	Must I write up an order for service?
375.503	375.6	Must I write up a bill of lading?
Weighing The Shipment		
375.505	375.7	Must I determine the weight of a shipment?
375.507	375.7	What is a certified scale?
375.509	375.7	How must I determine the weight of a shipment?
375.511	375.7	May I use an alternative method for shipments weighing 454 kilograms or less?
375.513	375.7	Must I give the individual shipper an opportunity to observe the weighing?
375.515	375.7	May an individual shipper waive his/her right to observe each weighing?
375.517	375.7	May an individual shipper demand re-weighing?
375.519	375.7	Must I obtain weight tickets?

PART 375.—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE—Continued

Proposed section	Old section	Title of proposed section
375.521	375.7	What must I do if an individual shipper wants to know the actual weight or charges for a shipment before I tender delivery?
SUBPART F—TRANSPORTATION OF SHIPMENTS		
375.601	375.8	Must I transport the shipment in a timely manner?
375.603	375.8	When must I tender a shipment for delivery?
375.605	375.8	How must I notify an individual shipper of any service delays?
375.607	375.8	What must I do if I am able to tender a shipment for final delivery more than 24 hours before a specified date?
375.609	375.12(c)	What must I do for shippers who store household goods in transit?
SUBPART G—DELIVERY OF SHIPMENTS		
375.701	375.10	May I provide for a release of liability on my delivery receipt?
375.703	375.3(d)	What is the maximum collect-on-delivery amount I may demand at the time of delivery?
375.705	375.16	If a shipment is transported on more than one vehicle, what charges may I collect at delivery?
375.707	375.15	If a shipment is partially lost or destroyed, what charges may I collect at delivery?
375.709	375.15	If a shipment is totally lost or destroyed, what charges may I collect at delivery?
SUBPART H—COLLECTION OF ACTUAL CHARGES		
375.801	None	What types of charges apply to subpart H?
375.803	377.205	How must I present my freight or expense bill?
375.805	375.3(d)	If I was forced to relinquish a collect-on-delivery shipment before the payment of ALL charges, how do I collect the balance?
375.807	377.215	(c)What actions may I take to collect the charges upon my freight bill?
SUBPART I—FILING ANNUAL ARBITRATION REPORTS		
375.901	375.18	What is an annual arbitration report?
375.903	None	Who must file an annual arbitration report?
375.905	None	Where and when do I file an annual arbitration report?
375.907	None	How must I prepare and submit an annual arbitration report?
SUBPART J—PENALTIES		
375.1001	None	What penalties do we impose for violations of this part?
APPENDIX A		
Part 375, Appendix A	Part 375—Form: Office of Compliance and Enforcement (OCE)–100.	Your Rights and Responsibilities When You Move.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket number appearing at the top of this document. The FHWA will file comments received after the comment closing date in the docket and will consider late comments to the extent practicable. The FHWA may, however, issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file, in the docket, relevant information becoming available after the comment closing date, and interested persons should continue to examine the docket for new material.

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*. It is available 24 hours each day, 365 days each year. Please follow the instructions on-line for more information and help.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined this action is neither a significant regulatory action under Executive Order 12866 nor significant under the Department of Transportation's regulatory policies and procedures. It is anticipated the economic impact of this action will not be substantial because this proposed rule makes minor, technical changes to the Federal Motor Carrier Commercial Regulations for household goods carriers. A full regulatory evaluation, therefore, is not warranted.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule upon small entities. The Small Business Administration (SBA) requires Federal agencies to analyze the impact of proposed rules on small businesses using the SBA Small Business Size Standards. These standards are based on the number of employees or revenue generated, and small businesses are listed by standard industrial classification (SIC) code.

The FHWA believes there is no way to estimate the proportion of small

entities that are affected by motor carrier consumer protection regulations because the Motor Carrier Management Information System (MCMIS), the FHWA database of all entities which operate commercial motor vehicles, does not contain information pertaining to revenue, number of employees, or SIC codes. The most reliable method of determining the size of the motor carrier using MCMIS is by number of power units. For purposes of this analysis, a small motor carrier means a motor carrier with 10 power units or fewer.

The FHWA has, in its August 1996 databases, 10,097 motor common carriers who identified themselves as transporting household goods in interstate or foreign commerce. Of this number, 9,179 (or 90.9 percent) have identified themselves as having ten or fewer power units (i.e., straight trucks or truck tractors).

The FHWA believes this database significantly overstates the actual number of motor carriers subject to the household goods consumer protection regulations. The ICCTA created a new, more restrictive definition of transportation of household goods than the ICC had used. The FHWA's MCMIS database contains information based upon a motor carrier's determination of what it transported at the initial filing of the form MCS–150. This information may have been filed before the ICCTA and may have significantly changed since the filing.

The AMSA claims, as its members, most of the motor common carriers who transport household goods in interstate commerce. On March 4, 1997, the AMSA informed the FHWA that it had 1,754 members, who hold FHWA authority to operate in interstate commerce transporting household goods. The FHWA will assume the AMSA membership roll is closer to the true number. The FHWA will add 246 motor carriers as a cushion for those motor carriers who may not be AMSA members. Based upon the AMSA membership data, for purposes of these analyses, we will use 2,000 carriers as the estimated size of the regulated industry subject to this proposed rule.

This NPRM would amend and clarify the requirements for motor common carriers of household goods to provide service to each prospective individual shipper. These requirements include the following thirteen items:

(1) Minimum advertising information soliciting prospective individual shippers.

(2) Distribution of a document, specified in appendix A to part 375, noting the individual shipper's rights and responsibilities under Federal Highway Administration regulations.

(3) A binding or non-binding estimate of transportation, accessorial, and incidental charges.

(4) An order for service.

(5) The selling of insurance policies.

(6) A bill of lading.

(7) Weight tickets.

(8) Notifications of reasonable dispatch service delays.

(9) Complaint and inquiry handling.

(10) Use of charge card plans.

(11) Agreements with agents

(12) Notification of storage-in-transit liability assignments.

(13) An arbitration results report.

The former ICC required motor common carriers to follow these requirements with the exception of item number 13. Congress transferred the authority to protect individual shippers to the FHWA in the ICCTA. The FHWA believes these are minimum requirements necessary to protect individual shippers. The AMSA has advised the FHWA, in correspondence placed in the docket, its members want these requirements to be continued with minor modifications, as discussed above, to protect individual shippers.

The FHWA calculates each entity will have to spend an average of $7,967 and 2,105 annual burden hours to comply with all of the paperwork requirements of this action. The FHWA based this estimate upon the estimated costs identified below to create records, duplicate records, store the original and duplicated copies of records, and practice inventory control for the records.

The information required for preparing these documents is the type of information already developed by such entities in the normal course of conducting a household goods transportation business. The time necessary to compile the incremental data for the documents required in these regulations should be minimal and would vary proportionately with the number of shipments transported by the carrier.

Although transportation consumers will benefit from the availability of this information, the cost to small carriers should be relatively minimal. Accordingly, the FHWA certifies this action would not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Executive Order 12612 (Federalism Assessment)

This NPRM has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. We have determined this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The amendments made by this proposed rule would not have a substantial direct effect on States nor on the relationship or distribution of power between the national government and the States because these changes do little to limit the policy making discretion of the States.

The rule is not intended to preempt any State law or State regulation. Moreover, the changes made by this rule would impose no additional cost or burden upon any State. The rule would not have a significant effect upon the ability of the States to discharge traditional State governmental functions. The FHWA, therefore, is not required to prepare a separate Federalism Assessment for this rule.

Unfunded Mandates Reform Act of 1995

This NPRM has been analyzed in accordance with the principles and criteria contained in the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4, 109 Stat. 48). The FHWA has determined this action does not have sufficient unfunded mandate implications to warrant the preparation of an unfunded mandate assessment.

The amendments made by this proposed rule would not have a substantial direct effect on States nor on the relationship or distribution of power between the national government and the States because these changes do little to limit the policy making discretion of the States.

The rule is not intended to preempt any State law or State regulation. Moreover, the changes made by this rule would impose no additional cost or burden upon any State. The rule will not have a significant effect upon the ability of the States to discharge traditional State governmental functions.

For purposes of section 203 of the UMRA, the replacement of the annual performance report with an annual arbitration report would not impose a burden greater than $100 million. Also, the addition of an explicit requirement to provide an estimate, either binding or non-binding, would not impose a $100 million burden, either.

Under the Regulatory Flexibility Act discussion above, the FHWA estimates this proposal would have an annual burden of just under $16 million. The FHWA, therefore, is not required to prepare a separate Unfunded Mandate Assessment for this rule.

Paperwork Reduction Act

Under the OMB regulations, 5 CFR 1320, Controlling Paperwork Burdens on the Public, the OMB requires the FHWA to estimate the burden its regulations impose to generate, maintain, retain, disclose, or provide information to or for the FHWA, including the nine following items:

1. Reviewing instructions.
2. Developing, acquiring, installing, and utilizing technology and systems for the purpose of collecting, validating, and verifying information.
3. Developing, acquiring, installing, and utilizing technology and systems for the purpose of processing and maintaining information.
4. Developing, acquiring, installing, and utilizing technology and systems for the purpose of disclosing and providing information.
5. Adjusting the existing ways to comply with any previously applicable instructions and requirements.
6. Training personnel to be able to respond to a collection of information.
7. Searching data sources.
8. Completing and reviewing the collection of information.
9. Transmitting, or otherwise disclosing the information.

The OMB regulations permit the time, effort, and financial resources necessary to comply with a collection of information incurred by persons in the normal course of their activities (e.g., in compiling and maintaining business records) to be excluded from the burden estimate if the FHWA demonstrates to the OMB that the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary. A collection of information conducted or sponsored by the FHWA and also conducted or sponsored by a unit of State, local, or tribal government is presumed to impose a Federal burden, except to the extent the FHWA shows such State, local, or tribal requirement would be imposed even in the absence of a Federal requirement.

The collection of information requirements in this NPRM are to generate, maintain, retain, disclose, and provide information to or for the FHWA under 49 CFR part 375 to individual shippers as a consumer protection service. The collection of information would be used by prospective shippers to make informed decisions about contracts and services to be ordered, executed, and settled with interstate household goods carriers. The only information collection items the FHWA is changing from the former ICC's rules are the elimination of the annual performance report (previously submitted to OMB) and the addition of an annual arbitration report. All other items were required under the former ICC regulations, although no assigned OMB control number was transferred from the ICC to the FHWA covering these collections of information.

The FHWA has calculated the 5 CFR 1320 paperwork financial resources burden for the collection of information contained in this NPRM. The FHWA used national averages of cost indicators developed by the Association of Records Managers and Administrators, Inc. (ARMA International). The ARMA International publication "Cost Indicators for Selected Records Management Activities (A Guide to Unit Costing for the Records Manager—Volume 1)" (1993) and its companion "Cost Finding for Records Management Activities (A Guide to Unit Costing for the Records Manager—Volume II)" (1996) by Jose-Marie Griffiths, Ph.D., and Donald W. King were used by the FHWA in calculating activity and organizational unit costs. The ARMA International guides determine organizational unit costs to be costs a parent organization may attach to records management activities. They include activity unit costs and records management general and administrative costs. Activity unit costs include salaries, benefits, supervision, training, staff and storage space, equipment, and supplies. General and administrative costs include staff compensation and space, non-productive time, furniture, supplies, and other direct and indirect costs associated with management and administration. The FHWA believes using organizational unit costs will more accurately estimate the actual costs for the entire CMV industry rather than activity unit costs and records management unit costs.

ESTIMATED PAPERWORK BURDEN

Type of burden	Financial cost	Hourly burden
Advertising	$4,814	351
"Your Rights" Booklet	894,710	4,167
Estimates	4,251,240	3,060,000
Order for Service	1,417,080	300,000
Insurance Policy Sales	236,180	100,000
Bills of Lading	2,877,240	300,000
Weight Tickets	2,702,808	90,000
Notice (Reasonable Dispatch)	507,816	10,000
Complaint Handling	1,502,696	310,000
Charge Card Plans	1,502	584
Notice (SIT)	228,348	30,000
Arbitration Report	1,310,722	4,000
Total	15,935,156	4,209,102

As stated above, the FHWA will use the figure of 2,000 motor carriers engaged in transportation of household goods in interstate or foreign commerce.

The FHWA has broken down each discussion of information collection requirements into the major areas of 49 CFR Part 375's requirements.

Minimum Advertising Information Soliciting Prospective Individual Shippers

Section 375.207 requires each advertisement of a motor carrier, or its agent, to include the name or trade name of the originating service motor carrier and the applicable FHWA-assigned U.S. DOT number. The FHWA believes identifying the name or trade name of a business entity in an advertisement is a usual and customary business practice. If the OMB agrees with the FHWA's assertion, this requirement would not be considered a burden defined by 5 CFR 1320, but would require approval by the OMB.

The requirement to specify the applicable FHWA-assigned U.S. DOT number in an advertisement, except for advertisements on radio broadcasts, would impose a slight burden. The FHWA estimates the 2,000 carriers subject to this requirement would have one advertisement in their local telephone yellow pages. In addition, each carrier would have one advertisement per year created for its local paper. The FHWA estimates the 17 large van lines would have 12 different advertisements per year created. The FHWA will estimate the cost of placing the U.S. DOT number in the created advertisement, but believes the advertisement's other time and financial costs are usual and customary business practices.

The ARMA International guide indicates the creation of one record costs an organization $1.145. The FHWA determines 2,000 local telephone advertisements, 2,000 local newspaper advertisements, and 204 large van line advertisements must be created specifying the FHWA-assigned number. Multiplying 4,204 by $1.145 results in $4,814 (the FHWA rounds money up to the next whole dollar).

The FHWA has calculated the 5 CFR 1320 paperwork time burden for the

advertisement collection of information. Based upon 4,204 advertisements, the FHWA estimates each motor carrier would need 5 minutes to create the assigned number upon the advertisement. This result multiplied by 4,202 advertisements equals 351 hours for the household goods carrier industry.

Your Rights and Responsibilities When You Move

In February 1997, the FHWA asked the AMSA to estimate how many booklets would be distributed to individual shippers. The AMSA believes 580,000 orders for service are executed each year and recommends the FHWA round this number up by 20,000 to 600,000 orders for service. This would capture the additional booklets of "Your Rights And Responsibilities When You Move" distributed to prospective individual shippers who decide not to use the services of a motor common carrier, but who were supplied the booklet at the appropriate time based upon the regulation.

In the past, the ICC required motor common carriers to obtain the booklet "Your Rights and Responsibilities When You Move" from the ICC. A motor common carrier could add supplementary text about carrier-specific items relevant to its operations and its own carrier logo. The motor carrier would then distribute the booklet.

Although the FHWA does not have the resources to publish massive quantities of this important consumer publication, we strongly believe this publication should continue to be distributed. The AMSA agrees with us. The AMSA has advised us its members would provide the modified publication to consumers even without a regulatory requirement. However, we propose to continue requiring distribution of the publication to ensure consumers are provided with important knowledge to deal effectively with household goods carriers, particularly the few, unscrupulous carriers who treat them unfairly and are unlikely to provide this information voluntarily.

The FHWA would allow motor common carriers to reproduce or photocopy this document in one of the following three ways.

1. Distribute a subsequent **Federal Register** final rule (and successor final rules).

2. Distribute the appendix to 49 CFR Part 375 when it is published in October of each year (by the U.S. Government Printing Office).

3. Publish independently their own publication containing the text of appendix A to Part 375.

This would provide flexibility to small entities who are not agents for other larger motor common carriers. The FHWA expects large van lines will want to produce their own booklets containing the appendix to part 375.

Based upon an organizational unit cost analysis, the FHWA estimates the household goods carrier industry will incur an annual paperwork burden of $894,710 to comply with the publication and distribution of the booklet. Each carrier may create its own carrier identifiable document for distribution. The organizational unit cost for creating a record using the ARMA International guide is $1.145 per record. Multiplying 2,000 carriers by $1.145 results in $2,290 for all carriers to produce an original record. The organizational unit cost for duplicating the carrier's document is $1.076 per record. This would cost $645,600 for 600,000 requests for estimates. The organizational unit cost for storage of the documents is $0.0228 per record. The FHWA estimates 602,000 must be stored. This is the sum for the storage of the original document plus all the duplicated documents. The storage cost is estimated to be $13,726. The FHWA also estimates the document must be in inventory and must be controlled. The organizational unit cost for the practice of inventory control of documents is $0.387 per record. The FHWA estimates this to be $232,974. The total cost is $894,710 based upon the organizational unit cost method.

Distribution of "Your Rights and Responsibilities When You Move" Booklet

The paperwork time burden for the 600,000 requests for orders for service requiring the distribution of this important consumer publication by 2,000 motor carriers results in an average of 300 copies distributed annually for each carrier. The FHWA estimates each carrier would need 1 hour to create each original document and approximately one additional hour to photocopy 300 copies of this document for distribution. The FHWA estimates carriers would need an additional 5 minutes to inventory their stored documents. The FHWA believes all household goods carriers usually and customarily distribute carrier-produced sales and information brochures and this document would be distributed with those documents when the prospective shipper is contacted. The FHWA, therefore, finds good cause to forego estimating a burden for distribution of the information in the brochure in this NPRM. The FHWA's total time estimate per carrier for this action is 2 hours 5 minutes. This result multiplied by 2,000 carriers equals 4,167 hours for the household goods carrier industry.

Binding or Non-binding Estimate of Transportation, Accessorial, and Incidental Charges

Motor carriers are not required under current FHWA regulations to furnish individual shippers with any type of estimate, binding or non-binding. If an estimate is calculated, however, the regulations do specify certain information is to be recorded, maintained, retained, and provided to the individual shipper. The proposed retention period of one year would remain the same as the current period. See 49 CFR 379.13, Appendix A, item J.1.(a) (62 FR 32040, June 12, 1997).

The FHWA believes household goods carriers provide almost every individual shipper with an estimate of charges prior to loading. The FHWA is proposing to require motor carriers to provide an estimate to every individual shipper. The ICC's unpublished 1995 HHG Performance Report Study found motor carriers wrote binding estimates for about 55.8 percent of the 384,003 collect-on-delivery shipments transported. The FHWA will use 60 percent for the percentage of estimates motor carriers will write as binding estimates (an exact estimate of the charges to be paid) and 40 percent written as non-binding estimates (an approximate cost of the transportation charges). The FHWA believes each shipper obtains an average of three estimates before deciding upon a motor carrier to transport its household goods.

For binding estimates, the motor carrier calculates what the total bill would be based upon a detailed analysis of the services to be provided. If the individual shipper has additional services or items to be performed at the time of loading the shipment, the motor carrier may either reaffirm the binding estimate, reject the binding estimate, recalculate a new binding estimate, or calculate a non-binding estimate. If the motor carrier does nothing, this NPRM would require the carrier to honor the binding estimate.

The FHWA estimates a motor carrier's binding estimate takes an average of 2 hours to complete. This involves the following ten items:

1. Traveling to the shipment location.
2. Estimating the items to be transported and their weight.
3. Estimating accessorial/incidental charges.

4. Reviewing and obtaining information from tariffs, guides, schedules, etc.
5. Calculating the estimate.
6. Recording the estimate.
7. Copying the estimate.
8. Attaching the copy to the order for service/bill of lading.
9. Providing the estimate to the prospective individual shipper.
10. Return travel to the motor carrier's terminal.

Calculation of 2 hours multiplied by 1,080,000 binding estimates (600,000 times 60 percent times an average of 3 estimates per order for service) results in 2,160,000 hours.

The FHWA assumes 50 percent of non-binding estimates are completed exclusively by telephone and 50 percent are completed through a personal visit to the individual shipper's residence. The FHWA estimates a motor carrier's non-binding estimate takes an average of 30 minutes to complete by telephone. This involves the following eight items:

1. Asking the individual on the telephone certain questions (such as number of rooms, any extra heavy items, automobiles, etc.).
2. Estimating the weight to be transported.
3. Estimating accessorial/incidental charges.
4. Reviewing and obtaining information from tariffs, guides, schedules, etc.
5. Calculating an estimate.
6. Recording the estimate.
7. Copying the estimate and attaching the copy to the order for service/bill of lading.
8. Providing the estimate to the prospective individual shipper over the telephone.

Calculation of 30 minutes multiplied by 360,000 non-binding estimates (600,000 times 40 percent (non-binding estimate) times 50 percent (estimate by telephone) times 3 estimates per order for service (average)) results in 180,000 hours.

Providing a non-binding estimate by a personal visit involves essentially the same elements as a binding estimate and would consume the same amount of time.

Calculation of 2 hours multiplied by 360,000 non-binding estimates (600,000 times 40 percent (non-binding estimate) times 50 percent (estimate by personal visit) times 3 estimates per order for service (average)) results in 720,000 hours.

Thus, the FHWA calculates the total burden hours as 2,160,000 for binding estimates, 180,000 for non-binding telephone estimates, and 720,000 for non-binding personal visit estimates for a grand total of 3,060,000 burden hours for estimates.

The FHWA estimates the financial burden in providing estimates would be creating a record of the estimate, copying the estimate, attaching it to the bill of lading, and filing and storing the estimate with the bill of lading. As discussed above, the FHWA estimates 600,000 orders for service are executed each year and the FHWA assumes each shipper obtains an average of 3 estimates prior to deciding upon a motor carrier. This means 1,800,000 estimates would be made each year, and 1,800,000 copies made, filed and stored. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to provide estimates of charges with the following four acts: 1,800,000 times $1.145 for creating one record equals $2,061,000. 1,800,000 times $1.076 for duplicating one record equals $1,936,800. 1,800,000 times $0.118 for filing one record equals $212,400. 1,800,000 times $0.0228 for storing one record equals $41,040. The total of the four results is $4,251,240.

Order For Service

An order for service must contain the following eleven information items:

1. The carrier's name and address and the FHWA U.S. DOT number assigned to the carrier who is responsible for performing the service.
2. The individual shipper's name, address and, if available, telephone number.
3. The name, address and telephone number of the delivering carrier's office or agent located at or nearest to the destination of the shipment.
4. A telephone number where the individual shipper/consignee may contact the carrier or his designated agent.
5. *Dates and times.* One of the following three dates and times.

(a) The agreed pickup date and agreed delivery date of the move.

(b) The agreed period or periods of time of the entire move.

(c) If the shipment is to be transported on a guaranteed service basis, the guaranteed dates or periods of time for pickup, transportation, and delivery. Any penalty or per diem requirements of the agreement must be entered under this item.

6. A complete description of any special or accessorial services ordered and minimum weight or volume charges applicable to the shipment.
7. Any identification or registration number assigned to the shipment.
8. For non-binding estimated charges, the amount of the charges, the method of payment of total charges, and, the maximum amount required to be paid at time of delivery to obtain possession of the shipment.
9. For binding estimated charges, the amount of charges required to be paid based upon a binding estimate and the terms of payment under this estimate.
10. Whether the individual shipper requests notification of the charges prior to delivery and the telephone number or address where such communications will be received.
11. Signature of the individual shipper, who is ordering the service, and signature of the carrier or his agent.

A copy of the order for service must be dated and furnished to the individual shipper at the time it is executed. The proposed retention period of one year would remain the same as the current period. See 49 CFR 379.13, Appendix A, item J.1.(b).

The FHWA estimates an order for service takes 30 minutes to complete. Multiplying this by 600,000 orders for service results in 300,000 burden hours.

The FHWA estimates the financial burden in providing orders for service would be in creating the order of service record, copying the order, attaching it to the bill of lading, and filing and storing the order with the bill of lading. As discussed above, the FHWA estimates 600,000 estimates for orders for service are executed each year. This means 600,000 orders would be made each year, and 600,000 copies made, filed and stored. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to provide orders for service using the following four calculations. 600,000 times $1.145 for creating one record equals $687,000. 600,000 times $1.076 for duplicating one record equals $645,600. 600,000 times $0.118 for filing one record equals $70,800. 600,000 times $0.0228 for storing one record equals $13,680. The total of the four results is $1,417,080.

Selling Insurance Policies

The regulations do not require motor carriers to sell insurance to individual shippers. If a motor carrier does sell insurance, however, the insurance policy must be in plain English and clearly specify the nature and extent of coverage. The proposed retention period (until expiration of coverage plus one year) would remain the same as the current period. See 49 CFR 379.13, Appendix A, item F.1.(c).

The FHWA estimates motor carriers sell excess liability insurance policies on 100,000 shipments of the 600,000 shipments each year. The FHWA also estimates each policy takes 1 hour to process and copy. This would result in 100,000 hours of burden for selling insurance policies to individual shippers.

The FHWA estimates the financial burden in selling insurance policies would be creating the insurance policy record, copying the policy, providing one copy to the individual shipper, and filing and storing the policy. As discussed above, the FHWA estimates 100,000 insurance policies would be executed each year. This means 100,000 policies would be made each year, and 100,000 copies would be made, filed, and stored. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to provide insurance policies using the following four calculations. 100,000 times $1.145 for creating one record equals $114,500. 100,000 times $1.076 for duplicating one record equals $107,600. 100,000 times $0.118 for filing one record equals $11,800. 100,000 times $0.0228 for storing one record equals $2,280. The total of the four results is $236,180.

Bills of Lading

A bill of lading must include the following twelve information items:

1. The carrier's name and address, or the name and address of the motor carrier issuing the bill of lading.
2. The names and addresses of any other motor carriers, when known, who will participate, through interline, in the transportation of the shipment.
3. The name, address, and telephone number of the office of the motor carrier to contact in relation to the transportation of shipments.
4. When the transportation is to be performed on a collect-on-delivery basis, the name, the address and, if furnished, the telephone number of a person to whom notification is provided for in proposed § 375.605 must be given.
5. For *non-guaranteed service*, the agreed date or period of time for pickup of the shipment and the agreed date or period of time for the delivery of the shipment. The agreed dates or periods of time for pickup and delivery entered upon the bill of lading must conform to the agreed dates or periods of time for pickup and delivery entered upon the order for service or a proper amendment to the order for service.
6. For *guaranteed service* subject to tariff provisions, the dates for pickup and delivery and any penalty or per diem entitlements due the individual shipper under the agreement.
7. The actual date of pickup.
8. The company or carrier identification number of the vehicle(s) on which the motor carrier loads the shipment.
9. The terms and conditions for payment of the total charges including notice of any minimum charges.
10. When the transportation is to be performed on a collect-on-delivery basis and if a pre-move estimate of the charges is provided to the individual shipper, the maximum amount required to be paid at the time of delivery to obtain delivery of the shipment.
11. The required released rates valuation statement (see RELEASED RATES OF MOTOR COMMON CARRIERS OF HHG, 9 I.C.C. 2d 523 (1993)) (as amended), and the charges, if any, for optional valuation coverage.
12. Evidence of any insurance coverage sold to or procured for the individual shipper from an independent insurer, including the amount of the premium for such insurance.

A copy of the bill of lading must accompany a shipment at all times. When the shipment is loaded upon a vehicle for transportation, the bill of lading must be in the possession of the driver responsible for the shipment. The proposed retention period would remain the same as the current period. See 49 CFR 379.13, Appendix A, item I.1.

The FHWA estimates a bill of lading takes 30 minutes to complete. Multiplying this by the estimated 600,000 bills of lading executed each year results in 300,000 burden hours.

The FHWA estimates the financial burden in providing bills of lading would be creating the bill of lading record, copying through the use of carbon or carbonless paper, attaching a copy to the estimate and order for service, providing a copy to accompany the load, and filing and storing the bill of lading with the estimate of charges and order for service. As discussed above, the FHWA estimates 600,000 orders for service are executed each year. This means 600,000 bills of lading would be made each year. The FHWA estimates at least three copies for each bill of lading would be made (1,800,000 copies), and 1,800,000 copies filed and stored. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to write bills of lading using the following four calculations: 600,000 times $1.145 for creating one record equals $687,000. 1,800,000 times $1.076 for duplicating one record equals $1,936,800. 1,800,000 times $0.118 for filing one record equals $212,400. 1,800,000 times $0.0228 for storing one record equals $41,040. The total of the four results is $2,877,240.

Weight Tickets

Every weight ticket must be signed by the person performing the weighing and must contain the following six information items:

1. The complete name and location of the scale.
2. The date of each weighing.
3. Identification of the weight entries as being the tare, gross, or net weights.
4. The company or carrier identification of the vehicle.
5. The last name of the individual shipper as it appears on the Bill of Lading.
6. The carrier's shipment registration or Bill of Lading number.

When both weighings are performed on the same scale, one weight ticket may be used to record both weighings. All freight bills presented to collect any shipment charges dependent on the weight transported must be accompanied by true copies of all weight tickets obtained in the determination of the shipment weight. The proposed retention period would remain the same as the current period. See 49 CFR 379.13, Appendix A, item J.5 for the current retention period.

The FHWA estimates weighing freight takes 5 minutes to complete. The FHWA estimates 5 percent of shipments move under a binding estimate and an additional 5 percent move under an estimate based upon volume. These two types of estimates do not require weighing— therefore, the FHWA will exclude 60,000 shipments from our calculations. The FHWA calculates 540,000 shipments times two weighings per shipment equals 1,080,000 weighings. This multiplied by 5 minutes per weighing results in 90,000 burden hours.

The FHWA estimates the financial burden in providing a weighing would be in creating the weight record, copying would generally be done through the use of carbon or carbonless paper, attaching a copy to the bill of lading and order for service, and filing and storing the weight ticket with the bill of lading and order for service.

The FHWA estimates one copy for each weight ticket would be made (1,080,000 copies), and 2,160,000 copies filed and stored. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to record weight tickets using the

following four calculations: 1,080,000 times $1.145 for creating one record equals $1,236,600. 1,080,000 times $1.076 for duplicating one record equals $1,162,080. 2,160,000 times $0.118 for filing one record equals $254,880. 2,160,000 times $0.0228 for storing one record equals $49,248. The total is $2,702,808.

Notifications of Reasonable Dispatch Service Delays

At the time of notification of delay, a carrier must advise the individual shipper of the alternative dates or periods of time the carrier may be able to pickup and/or deliver the shipment. The needs of the individual shipper must always be considered in this advisement. Additional requirements include the following six information items:

1. If the notification of delay occurs prior to the pickup of the shipment, the carrier must amend the order for service.
2. If the notification of delay occurs subsequent to the pickup of the shipment, the carrier must notify the individual shipper of the delay.
3. The carrier must prepare a written record of the date, time and manner of notification.
4. The carrier must prepare a written record of the amended date or period of time for delivery.
5. These records must be retained by the carrier as part of its file on the shipment. The retention period would be one year from the date of notification.
6. A true copy of the written delay notification noting the date, time and manner of notification, along with a record of the amended date or period of time for delivery must be furnished to the individual shipper by first class mail or in person.

The proposed retention period of one year would remain the same as the current period. See 49 CFR 379.13, Appendix A. item I.4.(b).

The FHWA estimates 20 percent of the 600,000 shipments transported each year experience some sort of delay requiring notification. This would result in 120,000 notifications. The FHWA believes 99.9 percent of these notifications occur by telephone and take an average of 5 minutes to complete. The FHWA believes telegram and in person notification is used rarely. The FHWA also believes 99.9 percent of the written records provided to the individual shipper are delivered by first class mail and not in person.

Multiplying 120,000 notifications by an average of 5 minutes results in 10,000 burden hours.

The FHWA estimates the financial burden in providing a notification of delay would be in disclosing information in a 5 minute telephone call, creating a record of the notification, copying the record through the use of carbon or carbonless paper, mailing a copy to the individual shipper, and filing and storing the written notice with the bill of lading and order for service documents.

The FHWA estimates one copy for each notice would be made (120,000 copies), and 120,000 copies must be filed and stored. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to notify individual shippers about reasonable dispatch delays using the following six calculations:

120,000 times $0.31 per minute (A.T.&T. long distance telephone rate for a call from New York, NY, to Los Angeles, CA) times 5 minutes equals $186,000.
120,000 times $1.145 for creating one record equals $137,400.
120,000 times $1.076 for duplicating one record equals $129,120.
120,000 times $0.32 for mailing by U.S. Postal Service first class service to the individual shipper equals $38,400.
120,000 times $0.118 for filing one record equals $14,160.
120,000 times $0.0228 for storing one record equals $2,736. The total is $507,816.

Complaint and Inquiry Handling

The regulations require carriers establish and maintain a procedure for responding to inquiries and complaints from individual shippers. The procedure must be specified in a concise, easy to read summary of the program and include a communications system allowing individual shippers to communicate with the carrier's principal place of business by telephone. The carrier must make a written record of all inquiries and complaints received from an individual shipper by any means of communication. The proposed retention period of one year after settlement would remain the same as the current period. See 49 CFR 379.13, Appendix A, item F.2.(a).

The FHWA estimates all 600,000 shipments transported each year have some sort of inquiry made about them by an individual shipper. The FHWA believes at least two are made by each shipper. This would result in 1,200,000 records of complaints and inquiries. The FHWA estimates each carrier would use an average of 30 minutes to establish, document, and distribute its complaint and inquiry handling system in a concise, easy to read summary.

The FHWA multiplies 1,200,000 records by an average of 5 minutes and 600,000 records of summaries distributed by an average of 30 minutes. This results in 310,000 hours annual burden.

The FHWA estimates the financial burden in conducting complaint and inquiry procedures would include the following twelve information items:

1. Establishing the complaint and inquiry system.
2. Creating a concise, easy to read summary record of the system.
3. Copying the summary record 600,000 times.
4. Filing the summary record until needed.
5. Storing the summary record until needed.
6. Distributing the summary record with other sales brochures as needed (including "Your Rights and Responsibilities When You Move" and the *arbitration procedure*).
7. Disclosing information about complaints and inquiries in a 5 minute telephone call.
8. Creating a record of the notification.
9. Copying the record through the use of carbon or carbonless paper.
10. Mailing a copy to the individual shipper (by regular mail).
11. Filing the written notice.
12. Storing the written notice with the bill of lading and order for service documents.

The FHWA estimates one copy for each complaint or inquiry notice would be made (120,000 copies), and 120,000 copies filed and stored. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to notify individual shippers about complaint and inquiry handling using the following twelve calculations:

2,000 concise, easy to read summary records of the system times $1.145 for creating one record equals $2,000.
600,000 times $1.076 for duplicating the summary record equals $645,600.
600,000 times $0.32 for mailing by regular service U.S. Mail to agents and salespeople for distribution equals $192,000.
600,000 times $0.118 for filing the summary record until needed equals $70,800.
600,000 times $0.0228 for storing the summary record until needed equals $13,680.
600,000 times $0.118 for distributing the summary record with other sales brochures equals $70,800.

120,000 times $0.31 per minute (A.T.&T. long distance telephone rate for a call from New York, NY to Los Angeles, CA) times 5 minutes equals $186,000.
120,000 times $1.145 for creating one record equals $137,400.
120,000 times $1.076 for duplicating one record equals $129,120.
120,000 times $0.32 for mailing by U.S. Postal Service first class service to the individual shipper equals $38,400.
120,000 times $0.118 for filing one record equals $14,160.
120,000 times $0.0228 for storing one record equals $2,736. The total is $1,502,696.

Use of Charge Card Plans

The regulations allow for the use of charge card plans, but do not require information collection requirements as a part of the regulation.

Agreements With Agents

The regulations require motor carriers have written agreements with their prime agents. The AMSA's information shows 1,151 motor carriers do not affiliate with any van line, while 1,167 carriers are affiliated with one of 17 van lines. These 1,167 carriers are probably prime agents. The prime agents must have written agreements with their motor carrier principal.

The FHWA estimates all 1,167 carriers have one written agreement with another motor carrier. This would result in 1,167 records of written agreements. The FHWA multiplies 1,167 records by an average of 30 minutes. This results in 584 annual burden hours.

The FHWA estimates the financial burden in executing a written agreement with prime agents would be in discussing the information with a potential agent, creating a record of the agreement, and filing and storing of the written agreement. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to execute written agreements with prime agents using the following three calculations:

1,167 times $1.145 for creating one record equals $1,337.
1,167 times $0.118 for filing one record equals $138.
1,167 times $0.0228 for storing one record equals $27.
The total is $1,502.

Notification of Storage-in-Transit Liability Assignments

Motor carriers who are holding goods for storage-in-transit and this period of storage is about to expire must notify the individual shipper in writing about the following four information items:

1. The date of conversion to permanent storage.

2. The existence of a nine-month period subsequent to the date of conversion to permanent storage when the individual shipper may file claims against the carrier for loss or damage occurring to the goods in transit or during the storage-in-transit period.

3. The fact the carrier's liability will end.

4. The fact the individual shipper's property will be subject to the rules, regulations, and charges of the warehouseman.

The motor carrier must make this notification at least 10 days prior to the expiration date of one of the following two conditions.

(1) The specified period of time when the goods are to be held in storage.

(2) The maximum period of time provided in its tariff for storage-in-transit.

The motor carrier must notify the individual shipper by certified mail, return receipt requested. If the motor carrier is holding household goods in storage-in-transit for a period of time less than 10 days, within one day prior to the expiration date of the specified time when the goods are to be held in such storage, the carrier must give notification to the individual shipper.

The carrier must maintain a record of notifications as part of the records of the shipment.

The FHWA assumes 10 percent of the 600,000 shipments result in storage-in-transit situations where the time period expires. This would result in 60,000 records of notifications.

The FHWA multiplies 60,000 records by an estimated average of 30 minutes. This results in 30,000 annual burden hours.

The FHWA estimates the financial burden in notifying an individual shipper about the storage-in-transit expiration date and conditions would be creating a record, copying the record, mailing the original by certified (return receipt requested) service, filing the record, and storing the active record.

The FHWA estimates the original agreement would be made and mailed to the individual shipper. The carrier would file and store the copy. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to notify shippers regarding the expiration of storage-in-transit using the following four calculations:

60,000 times $1.145 for creating one record equals $68,700.
60,000 times $2.52 for postage (certified, return receipt requested U.S. Postal Service) for one record equals $151,200.
60,000 times $0.118 for filing one record equals $7,080.
60,000 times $0.0228 for storing one record equals $1,368.
The total is $228,348.

Arbitration Results Report

Every motor carrier must have an arbitration program by statute. Each motor carrier must include in its annual arbitration report the following nine information items:

1. The total number of shipments transported.

2. The total number of claims in excess of $1000.

3. The total number of claims of $1000 or less.

4. The number of requests for arbitration on claims of $1000 or less.

5. The results of those arbitrations (claim amounts and disposition).

6. The number of requests for arbitration on claims in excess of $1000.

7. The number of requests for arbitration on claims in excess of $1000 accepted by the carrier.

8. The results of the arbitrations the carrier accepted and reported under item 7 of this list, providing the claim amount and disposition.

9. An oath, completed by the carrier and signed by a company officer.

The FHWA requires all 600,000 orders for service include a concise, easy to read summary of the arbitration procedures. This would result in 600,000 records being distributed. In addition, the FHWA would require all motor carriers file annually a prepared summary of the previous year's results of their arbitration programs.

The FHWA estimates each carrier would use an average of 2 hours to establish, document, and distribute its arbitration program in a concise, easy to read summary.

The FHWA multiplies 2,000 motor carriers by an average of 2 hours to establish, document, copy, and distribute 600,000 records of summaries. This results in 4,000 annual burden hours.

The FHWA estimates the financial burden in establishing an arbitration program and filing the results of the program annually would include the following nineteen information items:

1. Establishing the arbitration program.

2. Creating a concise, easy to read summary record of the program.

3. Copying the summary record 600,000 times.

4. Filing the summary record until needed.
5. Storing the summary record until needed.
6. Distributing the summary record with other sales brochures as needed (including "Your Rights and Responsibilities When You Move" and the *compliant and inquiry handling system*).
7. Creating a record of each arbitration result.
8. Filing the record of the arbitration result.
9. Storing the active record of the arbitration result.
10. Requesting the active records of all arbitration results be sent to the annual record preparer's location.
11. Reviewing and compiling the records of all arbitration results.
12. Reviewing the regulations for the items to be reported.
13. Creating an annual record of the results of the program.
14. Copying the annual record for the carrier's files.
15. Mailing the annual record to Washington, DC.
16. Filing the copy of the annual record.
17. Storing the copy of the annual record.
18. Re-filing each record of arbitration results.
19. Storing each record of arbitration results.

The FHWA assumes 10 percent of household goods shippers would seek arbitration each year. This would result in 60,000 arbitrations being made each year. The FHWA assumes the records would be active rather than inactive.

Thus, the FHWA calculates the organizational unit cost analysis to provide arbitration program summaries and preparation of a filed arbitration report using the following sixteen calculations:

2,000 concise, easy to read summary records of the system times $1.145 for creating one record equals $2,290.
600,000 times $1.076 for duplicating the summary record equals $645,600.
600,000 times $0.32 for mailing by regular service U.S. Mail to agents and salespeople for distribution equals $192,000.
600,000 times $0.118 for filing the summary record until needed equals $70,800.
600,000 times $0.0228 for storing the summary record until needed equals $13,680.
600,000 times $0.118 for distributing the summary record with other sales brochures equals $70,800.
60,000 times $1.145 for creating one record of the arbitration result equals $68,700.
60,000 times $0.118 for filing one record equals $7,080.
60,000 times $0.0228 for storing one record equals $1,368.
60,000 times $1.789 for retrieving active records of all arbitration results be sent to the annual record preparer's location equals $107,340.
2,000 times $1.145 for creating an annual record of the results of the program equals $2,290.
2,000 times $1.076 for copying the annual record for the carrier's files equals $2,152.
2,000 times $0.32 for posting the annual record to Washington, DC by U.S. Postal Service equals $640.
2,000 times $0.118 for filing the copy of the annual record equals $236.
2,000 times $0.0228 for storing the copy of the annual record equals $46.
60,000 times $2.095 for re-filing each record of arbitration results equals $125,700.
The total is $1,310,722.

New Information Collection Request Summary

Title: Transportation of Household Goods; Consumer Protection Regulations.

Background: The Secretary of Transportation may promulgate "reasonable regulations, including regulations protecting individual shippers * * *" 49 U.S.C. 14104. The FHWA's regulations require motor common carriers of household goods to generate, maintain, retain, disclose, and provide information to the FHWA or for the motor carriers to provide to third parties (individual shippers). The FHWA would continue most of these regulations. The FHWA would propose no requirement for specific forms. The FHWA regulations would also allow motor carriers to provide electronic documents. The FHWA estimates providing the information electronically may not be useful. It would, however, allow such disclosures provided the consumer has a system to read the electronic information readily. The FHWA believes the use of such electronic information is uncommon and is not likely to grow significantly based upon the current proposed regulations.

The FHWA believes these requirements are necessary for motor common carriers to properly protect the rights and responsibilities of individual shippers. The FHWA believes these requirements are not unnecessarily duplicative of information otherwise reasonably accessible to an individual shipper. The FHWA believes most individual shippers would not know about the FHWA or its regulations published in Title 49, Code of Federal Regulations.

Respondents: Approximately 2,000 motor carriers who provide transportation of household goods in interstate commerce.

Average Burden per Year: 3,466,602 total hours divided by 2,000 motor carriers equals 1,734 hours annually.

Collection of Information Frequency: Upon set-up of a household goods motor carrier business, each time an individual shipper of household goods contemplates ordering service from a motor carrier, each time an individual shipper of household goods makes inquiries or complaints, each time a household goods shipment delay occurs, upon settlement of charges due, and annually for a report.

The FHWA will send a new burden estimate for this collection of information requirement to the Office of Management and Budget. This document serves as the FHWA's 60-day notice under 5 CFR 1320.8(d)(1).

The FHWA requests your comments regarding the accuracy of each estimate. If you believe an estimate is accurate, please tell us the reason why you believe it is accurate. If you believe the FHWA has miscalculated the burdens of time or financial burden, please tell us the reason why you believe it is inaccurate and provide us with better information to accurately estimate the burdens. The FHWA also requests your comments on the need for the collection of information requirements proposed in this NPRM, and on ways the FHWA may reduce the information collection burden while protecting consumers.

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined this action will not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight, Highways and roads, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

List of Subjects in 49 CFR Part 377

Credit, Freight forwarders, Highways and roads, Motor carriers.

Issued on: May 5, 1998.

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

For the reasons set out in the preamble, the FHWA proposes to amend 49 CFR Chapter III as set forth below:

1. Part 375 is revised to read as follows:

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE; CONSUMER PROTECTION REGULATIONS

Subpart A—General Requirements

Subpart B—Before Offering Services to My Customers

Liability Considerations

General Responsibilities

Collecting Transportation Charges

Subpart C—Service Options Provided

Subpart D—Estimating Charges

Subpart E—Pick up of Shipments of Household Goods

Before Loading

Weighing the Shipment

Subpart F—Transportation of Shipments

Subpart G—Delivery of Shipments

Subpart H—Collection of Charges

Subpart I—Filing Annual Arbitration Reports

Subpart J—Penalties

Appendix A—Your Rights and Responsibilities When You Move

Authority: 5 U.S.C. 553; 49 U.S.C. 13301 and 14104; and 49 CFR 1.48.

Subpart A—General Requirements

§ 375.101 Who must follow these regulations?

You, a motor common carrier engaged in the transportation of household goods, must follow the regulations in this part when offering your services to individual shippers. You are subject to this part only when you transport household goods for individual shippers by motor vehicle in interstate commerce.

§ 375.103 What are the definitions of terms used in this part?

(a) Terms used in this part:

Advertisement means any communication to the public in connection with an offer or sale of any interstate transportation service. This includes written or electronic database listings of your name, address, and telephone number in an on-line database. This excludes advertisements over airwaves, including radio and television, and listings of your name, address, and telephone number in a telephone directory or similar publication.

Cashier's check means a check that has all four of the following characteristics:

(1) Drawn on a bank as defined in 12 CFR 229.2.

(2) Signed by an officer or employee of the bank on behalf of the bank as drawer.

(3) A direct obligation of the bank.

(4) Provided to a customer of the bank or acquired from the bank for remittance purposes.

Household goods, as used in connection with transportation, means

the personal effects or property used, or to be used, in a dwelling. The personal effects and property must be a part of the equipment or supplies of such a dwelling or similar property.

Individual shipper or *householder* means any person who is the consignor or consignee of a household goods shipment and you identify him or her as such in the bill of lading contract. The individual shipper owns the goods being transported.

May means an option. You may do something, but it is not a requirement.

Must means a legal obligation. You must do something.

Order for service means a document authorizing you to transport an individual shipper's household goods.

Reasonable dispatch means the performance of transportation on the dates, or during the period of time, agreed upon by you and the individual shipper and shown on the Order For Service/Bill of Lading. For example, if you deliberately withhold any shipment from delivery after an individual shipper offers to pay the binding estimate or 110 percent of a non-binding estimate, you have not transported the goods with reasonable dispatch. The term "reasonable dispatch" excludes transportation provided under your tariff provisions requiring guaranteed service dates. You will have the defenses of force majeure, i.e., superior or irresistible force, as construed by the courts. "Force majeure" in this context, means a defense protecting the parties in the event that a part of the contract cannot be performed due to causes which are outside the control of the parties and could not be avoided by exercise of due care.

Should means a recommendation. We recommend you do something, but it is not a requirement.

Transportation of household goods means either one of the following two provisions:

(1) The householder (an individual shipper) arranges and pays for transportation of household goods. This may include transportation from a factory or store, when the individual shipper purchases the household goods with the intent to use the goods in his or her own dwelling.

(2) Another party arranges and pays for the transportation of household goods.

We, us, and *our* means the Federal Highway Administration (FHWA).

You and *your* means a motor common carrier engaged in the transportation of household goods and its household goods agents.

(b) *Where may other terms used in this part be defined?* You may find other terms used in this part defined in 49 U.S.C. 13102. The definitions in that statute control. If terms are used in this part and the terms are neither defined here nor in 49 U.S.C. 13102, the terms will have the ordinary practical meaning of such terms.

Subpart B—Before Offering Services to Customers

Liability Considerations

§ 375.201 What is my normal liability for loss and damage when I accept goods from an individual shipper?

(a) In general, you are legally liable for loss or damage if it happens during performance of any one of the following three services identified on your lawful bill of lading:

(1) Transportation of household goods.

(2) Storage-in-transit of household goods, including incidental pickup or delivery service.

(3) Servicing of an appliance or other article, if you or your agent performs the servicing.

(b) You are liable for loss of, or damage to, any household goods to the extent provided in the current Surface Transportation Board's released rates order (see RELEASED RATES OF MOTOR COMMON CARRIERS OF HHG, 9 I.C.C. 2d 523 (1993)).

(c) You may have additional liability if you sell excess liability insurance.

§ 375.203 What actions of an individual shipper may limit or reduce my normal liability?

(a) If an individual shipper includes perishable household goods without your knowledge, you need not assume liability for these items.

(b) If an individual shipper agrees to ship household goods released at a value greater than $1.32 per kilogram (60 cents per pound) per article, your liability for loss and damage may be limited to $220 per kilogram ($100 per pound) per article if the individual shipper fails to notify you in writing of articles valued at more than $220 per kilogram ($100 per pound).

(c) If an individual shipper notifies you in writing that an article valued at greater than $220 per kilogram ($100 per pound) will be included in the shipment, the shipper will be entitled to full recovery up to the declared value of the article or articles, not to exceed the declared value of the entire shipment.

General Responsibilities

§ 375.205 May I have agents?

(a) You may have agents provided you comply with paragraphs (b) and (c) of this section. A household goods agent is defined as either one of the following two types of agents:

(1) A *prime agent* provides a transportation service for you or on your behalf, including the selling of, or arranging for, a transportation service. You permit or require the agent to provide services under the terms of an agreement or arrangement with you. A prime agent does not provide services on an emergency or temporary basis. A prime agent does not include a household goods broker or freight forwarder.

(2) An *emergency or temporary agent* provides origin or destination services on your behalf, excluding the selling of, or arranging for, a transportation service. You permit or require the agent to provide such services under the terms of an agreement or arrangement with you. The agent performs such services only on an emergency or temporary basis.

(b) If you have agents, you must have written agreements between you and your prime agents. You and your retained prime agent must sign the agreements.

(c) Copies of all your prime agent agreements must be in your files for a period of at least 24 months following the date of termination of each agreement.

§ 375.207 What items must be in my advertisements?

(a) You and your agents must publish and use only truthful, straightforward, and honest advertisements.

(b) You must include, and you must require each of your agents to include, in all advertisements for all services (including any accessorial services incidental to or part of interstate transportation), the following two elements:

(1) Your name or trade name, as it appears on our document assigning you a U.S. DOT number, or the name or trade name of the motor carrier under whose operating authority the advertised service will originate.

(2) U.S. DOT number, assigned by us authorizing you to operate as a for-hire motor carrier.

(c) Your FHWA-assigned U.S. DOT number must be displayed only in the following form in every advertisement: U.S. DOT No. (assigned number).

§ 375.209 How must I handle complaints and inquiries?

(a) You must establish and maintain a procedure for responding to complaints and inquiries from your individual shippers.

(b) Your procedure must include all four of the following items:

(1) A communications system allowing individual shippers to communicate with your principal place of business by telephone.

(2) A telephone number.

(3) A clear and concise statement about who must pay for complaint and inquiry telephone calls.

(4) A written or electronic record system for recording all inquiries and complaints received from an individual shipper by any means of communication.

(c) You must produce a clear and concise written description of your procedure for distribution to individual shippers.

§ 375.211 Must I have an arbitration program?

(a) You must have an arbitration program for individual shippers. You must establish and maintain an arbitration program with the following eleven minimum elements:

(1) You must design your arbitration program to prevent you from having any special advantage in any case where the claimant resides or does business at a place distant from your principal or other place of business.

(2) Before the household goods are tendered for transport, your arbitration program must provide notice to the individual shipper of the availability of neutral arbitration, including all three of the following items:

(i) A summary of the arbitration procedure.

(ii) Any applicable costs.

(iii) A disclosure of the legal effects of election to use arbitration.

(3) Upon the individual shipper's request, you must provide forms and information necessary for initiating an action to resolve a dispute under arbitration.

(4) You must require each person you authorize to arbitrate to be independent of the parties to the dispute and capable of resolving such disputes, and you must ensure the arbitrator is authorized and able to obtain from you or the individual shipper any material or relevant information to carry out a fair and expeditious decision making process.

(5) You must not charge the individual shipper more than one-half of the total cost for instituting the arbitration proceeding against you. In the arbitrator's decision, the arbitrator may determine which party must pay the cost or a portion of the cost of the arbitration proceeding, including the cost of instituting the proceeding.

(6) You must refrain from requiring the individual shipper to agree to use arbitration before a dispute arises.

(7) Arbitration must be binding for claims of $1000 or less, if the individual shipper requests arbitration.

(8) Arbitration must be binding for claims of more than $1000, if the individual shipper requests arbitration and the carrier agrees to it.

(9) If all parties agree, the arbitrator may provide for an oral presentation of a dispute by a party or representative of a party.

(10) The arbitrator must render a decision within 60 days of receipt of written notification of the dispute, and a decision by an arbitrator may include any remedies appropriate under the circumstances.

(11) The arbitrator may extend the 60-day period for a reasonable period of time if you or the individual shipper fail to provide, in a timely manner, any information the arbitrator reasonably requires to resolve the dispute.

(b) You must produce and distribute a concise, easy-to-read, accurate summary of the your arbitration program, including the items in this section.

§ 375.213 What information must I provide to a prospective individual shipper?

(a) Before you execute an order for service for a shipment of household goods, you must furnish to your prospective individual shipper, all four of the following documents:

(1) The contents of Appendix A of this part, "Your Rights and Responsibilities When You Move."

(2) A concise, easy-to-read, accurate estimate of your charges.

(3) A concise, easy-to-read, accurate summary of the your arbitration program.

(4) A concise, easy to read, accurate summary of your customer complaint and inquiry handling procedures. Included in this description must be both of the following two items:

(i) The main telephone number the individual shipper may use to communicate with you.

(ii) A clear and concise statement concerning who must pay for telephone calls.

(b) To comply with paragraph (a)(1) of this section, you must produce and distribute a document with the text and general order of appendix A to this part as it appears. The following three items also apply:

(1) If we, the Federal Highway Administration, choose to modify the text or general order of appendix A, we will provide the public appropriate notice in the **Federal Register** and an opportunity for comment as required by part 389 of this subchapter before making you change anything.

(2) If you publish the document, you may choose the dimensions of the publication as long as the type font size is at least 10 point or greater and the size of the booklet is at least as large as 232 square centimeters (36 square inches).

(3) If you publish the document, you may choose the color and design of the front and back covers of the publication. The following words must appear prominently on the front cover in at least 12 point or greater bold or full-faced type: **"YOUR RIGHTS AND RESPONSIBILITIES WHEN YOU MOVE.** OMB No. 2125–_____, Expires on_____ , 200_____ . **Furnished By Your Mover, As Required By Federal Law."** You may substitute your name or trade name in place of "Your Mover" if you wish (for example, *Furnished by XYZ Van Lines, As Required By Federal Law*).

(c) Paragraphs (b)(2) and (b)(3) of this section do not apply to exact copies of appendix A published in the **Federal Register** or the *Code of Federal Regulations*.

Collecting Transportation Charges

§ 375.215 How must I collect charges?

You must issue an honest, truthful freight or expense bill in accordance with subpart A of part 373 of this subchapter.

§ 375.217 May I collect charges upon delivery?

(a) Yes. You may maintain a tariff setting forth nondiscriminatory rules governing collect-on-delivery service and the collection of collect-on-delivery funds.

(b) If an individual shipper pays you at least 110 percent of the approximate costs of a non-binding estimate on a collect-on-delivery shipment, you must relinquish possession of the shipment at the time of delivery. You may specify the form of payment acceptable to you.

§ 375.219 May I extend credit to shippers?

You may extend credit to shippers in accordance with § 375.807.

§ 375.221 May I use a charge card plan for payments?

(a) You may provide in your tariffs for the acceptance of charge cards for the payment of freight charges.

(b) You may accept charge cards whenever shipments are transported under agreements and tariffs requiring payment by cash, certified check, or a cashier's check.

(c) If you allow an individual shipper to pay for a freight or expense bill by charge card, you are deeming such payment to be equivalent to payment by

cash, certified check, or a cashier's check.

(d) The charge card plans you participate in must be identified in your tariff rules as items permitting the acceptance of the charge cards.

(e) If an individual shipper causes a charge card issuer to reverse a charge transaction, you may consider the individual shipper's action tantamount to forcing you to provide an involuntary extension of your credit. In such instances, the rules in § 375.807 apply.

Subpart C—Service Options Provided

§ 375.301 What service options may I provide?

(a) You may design your household goods service to provide individual shippers with a wide range of specialized service and pricing features. Many carriers provide at least the following five service options:

(1) *Space reservation.*

(2) *Expedited service.*

(3) *Exclusive use of a vehicle.*

(4) *Guaranteed service on or between agreed dates.*

(5) *Excess liability insurance.*

(b) If you sell excess liability insurance, you must follow the requirements in § 375.303.

§ 375.303 If I sell excess liability insurance coverage, what must I do?

(a) You, your employee, or an agent, may sell, offer to sell, or procure excess liability insurance coverage for loss and damage to shipments of any individual shippers only under the following two conditions:

(1) The individual shipper releases the shipment for transportation at a value not exceeding $1.32 per kilogram (60 cents per pound) per article.

(2) The individual shipper fails to declare a valuation of $2.75 or more per kilogram ($1.25 or more per pound) and pays, or agrees to pay, you for assuming liability for the shipment equal to the declared value.

(b) You may offer, sell, or procure any kind of excess liability insurance coverage.

(c) You may offer, sell, or procure any type of policy covering loss or damage in excess of the specified carrier liability.

(d) You must issue to the individual shipper a policy or other appropriate evidence of the insurance the individual shipper purchased.

(e) You must provide a copy of the policy or other appropriate evidence to the individual shipper at the time you sell or procure the insurance.

(f) You must issue policies written in plain English.

(g) You must clearly specify the nature and extent of coverage under the policy.

(h) Your failure to issue a policy, or other appropriate evidence of insurance purchased, to an individual shipper will subject you to full liability for any claims to recover loss or damage attributed to you.

(i) You must provide in your tariff for the provision of selling, offering to sell, or procuring excess liability insurance service. The tariff must also provide for the base transportation charge, including your assumption for full liability for the value of the shipment. This would be in the event you fail to issue a policy or other appropriate evidence of insurance to the individual shipper at the time of purchase.

Subpart D—Estimating Charges

§ 375.401 Must I estimate charges?

(a) Before you execute an order for service for a shipment of household goods for an individual shipper, you must estimate the total charges in writing. The written estimate must be one of the following two types:

(1) A *binding estimate,* an agreement made in advance with your individual shipper. It guarantees the total cost of the move based upon the quantities and services shown on your estimate.

(2) A *non-binding estimate,* what you believe the total cost will be for the move, based upon the estimated weight or volume of the shipment and the accessorial services requested. A non-binding estimate is not binding on you. You will base the final charges upon the actual weight of the individual shipper's shipment and the tariff provisions in effect.

(b) For non-binding estimates, you should provide your best estimate of the approximate costs the individual shipper should expect to pay for the transportation and services of such shipments. If you provide an inaccurately low estimate, you may be limiting the amount you will collect at the time of delivery as provided in § 375.407.

(c) You and the individual shipper must sign the estimate of charges. You must provide a dated copy of the estimate of charges to the individual shipper at the time you sign the estimate.

(d) Before loading a household goods shipment, and upon mutual agreement of both you and the individual shipper, you may amend an estimate of charges.

§ 375.403 How must I provide a binding estimate?

(a) You may provide a guaranteed binding estimate of the total shipment charges to the individual shipper, so long as it is provided for in your tariff. The individual shipper must pay the amount for the services included in your estimate. You must comply with the following eight requirements:

(1) You must provide a binding estimate in writing to the individual shipper or other person responsible for payment of the freight charges.

(2) You must retain a copy of each binding estimate as an addendum to the bill of lading.

(3) You must clearly indicate upon each binding estimate's face the estimate is binding upon you and the individual shipper. Each binding estimate must also clearly indicate on its face the charges shown are the charges being assessed for only those services specifically identified in the estimate.

(4) You must clearly describe binding estimate shipments and all services you are providing.

(5) If it appears an individual shipper has tendered additional household goods or requires additional services not identified in the binding estimate, you are not required to honor the estimate. However, before loading the shipment, you must do one of the following three things:

(i) Reaffirm your binding estimate.

(ii) Negotiate a revised written binding estimate listing the additional household goods or services.

(iii) Agree with the individual shipper, in writing, that both of you will consider the original binding estimate as a non-binding estimate subject to § 375.405.

(6) Once you load a shipment, failure to execute a new binding estimate or a non-binding estimate signifies you have reaffirmed the original binding estimate. You may not collect more than the amount of the original binding estimate, except as provided in paragraph (a)(7) of this section.

(7) If the individual shipper adds additional services at the destination and the services fail to appear on your estimate, you may require full payment at the time of delivery for those services your individual shipper added at destination.

(8) Failure to relinquish possession of a shipment upon an individual shipper's offer to pay the binding estimate amount constitutes a failure to transport a shipment with "reasonable dispatch" and subjects you to cargo delay claims pursuant to 49 CFR part 370.

(b) If you do not provide a binding estimate to an individual shipper, you must provide a non-binding estimate to

the individual shipper in accordance with § 375.405.

(c) You must retain a record of all estimates of charges for at least one year from the date you made the estimate.

§ 375.405 How must I provide a non-binding estimate?

(a) If you do not provide a binding estimate to an individual shipper in accordance with § 375.403, you must provide a non-binding estimate to the individual shipper.

(b) If you provide a non-binding estimate to an individual shipper, you must provide your best estimate of the approximate costs the individual shipper should expect to pay for the transportation and services of such shipments. You must comply with the following six requirements:

(1) You must provide reasonably accurate non-binding estimates based upon the estimated weight or volume of the shipment and services required.

(2) You must explain to the individual shipper all final charges calculated for shipments moved on non-binding estimates will be those appearing in your tariffs applicable to the transportation. You must explain to the individual shipper these final charges may exceed the approximate costs appearing in your estimate.

(3) You must furnish non-binding estimates without charge and in writing to the individual shipper or other person responsible for payment of the freight charges.

(4) You must retain a copy of each non-binding estimate as an addendum to the bill of lading.

(5) You must clearly indicate on the face of a non-binding estimate, the estimate is not binding upon you and the charges shown are the approximate charges to be assessed for the services identified in the estimate.

(6) You must clearly describe on the face of a non-binding estimate the entire shipment and all services you are providing.

(b) If you furnish a non-binding estimate, you must enter the estimated charges upon the order for service and upon the bill of lading.

(c) You must retain a record of all estimates of charges for at least one year from the date you made the estimate.

§ 375.407 Under what circumstances must I relinquish possession of a collect-on-delivery shipment transported under a non-binding estimate?

(a) If an individual shipper pays you at least 110 percent of the approximate costs of a non-binding estimate on a collect-on-delivery shipment, you must relinquish possession of the shipment at the time of delivery. You may specify the form of payment acceptable to you.

(b) Failure to relinquish possession of a shipment upon an individual shipper's offer to pay 110 percent of the estimated charges constitutes a failure to transport the shipment with "reasonable dispatch" and subjects you to cargo delay claims pursuant to 49 CFR part 370.

(c) You must defer demand for the payment of the balance of any remaining charges for a period of 30 days following the date of delivery. After this 30-day period, you must demand payment of the balance of any remaining charges. For example, if your non-binding estimate to an individual shipper estimated total charges at delivery should be $1,000, but your actual charges at destination are $1,500, you must deliver the shipment upon payment of $1,100 (110 percent of the estimated charges) and forego demanding payment. You then must issue a freight or expense bill demanding payment of the remaining $400 after the 30-day period expires.

(d) You must retain a record of all estimates of charges for at least one year from the date you made the estimate.

Subpart E—Pick Up of Shipments of Household Goods

Before Loading

§ 375.501 Must I write up an order for service?

(a) Before you receive a shipment of household goods you will move for an individual shipper, you must prepare an order for service. The order for service must contain the information described in the following ten items:

(1) Your name and address and the FHWA U.S. DOT number assigned to the carrier who is responsible for performing the service.

(2) The individual shipper's name, address and, if available, its telephone number(s).

(3) The name, address and telephone number of the delivering carrier's office or agent located at or nearest to the destination of the shipment.

(4) A telephone number where the individual shipper/consignee may contact you or your designated agent.

(5) *Dates and times.* One of the following three entries must be on the order for service:

(i) The agreed pickup date and agreed delivery date of the move.

(ii) The agreed period or periods of time of the entire move.

(iii) If you are transporting the shipment on a guaranteed service basis, the guaranteed dates or periods of time for pickup, transportation, and delivery. You must enter any penalty or per diem requirements upon the agreement under this item.

(6) A complete description of any special or accessorial services ordered and minimum weight or volume charges applicable to the shipment, subject to the following two conditions.

(i) If you provide service for individual shippers on rates based upon the transportation of a minimum weight or volume, you must indicate on the order for service the minimum weight- or volume-based rates, and the minimum charges applicable to the shipment.

(ii) If you do not indicate the minimum rates and charges, your tariff must provide you will compute the final charges relating to such a shipment based upon the actual weight or volume of the shipment.

(7) Any identification or registration number you assign to the shipment.

(8) *For non-binding estimates,* your best estimate of the amount of the charges, the method of payment of total charges, and the maximum amount (no more than 110 percent of the non-binding estimate) you will demand at the time of delivery to relinquish possession of the shipment.

(9) *For binding estimates,* the amount of charges you will demand based upon the binding estimate and the terms of payment under this estimate.

(10) Whether the individual shipper requests notification of the charges before delivery. The individual shipper must provide you with the telephone number(s) or address(es) where you will transmit the notification.

(b) You and the individual shipper must sign the order for service. You must provide a dated copy of the order for service to the individual shipper at the time you sign the order.

(c) Before loading the shipment, and upon mutual agreement of both you and the individual shipper, you may amend an order for service.

(d) You must retain records of an order for service for at least one year from the date you made the order.

§ 375.503 Must I write up a bill of lading?

(a) You must issue a bill of lading. The bill of lading must contain the terms and conditions of the contract. You must furnish a complete copy of the bill of lading to the individual shipper before beginning to load the shipment.

(b) On a bill of lading, you must include the following twelve items:

(1) Your name and address, or the name and address of the motor carrier issuing the bill of lading.

(2) The names and addresses of any other motor carriers, when known, who

will participate in interline transportation of the shipment.

(3) The name, address, and telephone number of your office (or the office of your agent) where the individual shipper can contact you in relation to the transportation of the shipment.

(4) When you transport under a collect-on-delivery basis, the name, address and, if furnished, the telephone number of a person to notify about the charges, as required in § 375.605.

(5) *For non-guaranteed service,* the agreed date or period of time for pickup of the shipment and the agreed date or period of time for the delivery of the shipment. The agreed dates or periods of time for pickup and delivery entered upon the bill of lading must conform to the agreed dates or periods of time for pickup and delivery entered upon the order for service or a proper amendment to the order for service.

(6) *For guaranteed service,* subject to tariff provisions, the dates for pickup and delivery and any penalty or per diem entitlements due the individual shipper under the agreement.

(7) The actual date of pickup.

(8) The company or carrier identification number of the vehicle(s) upon which you load the individual shipper's shipment.

(9) The terms and conditions for payment of the total charges, including notice of any minimum charges.

(10) The maximum amount you will demand at the time of delivery to obtain possession of the shipment, when you transport under a collect-on-delivery basis.

(11) The Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage (see RELEASED RATES OF MOTOR COMMON CARRIERS OF HHG, 9 I.C.C. 2d 523 (1993)).

(12) Evidence of any insurance coverage sold to or procured for the individual shipper from an independent insurer, including the amount of the premium for such insurance.

(c) A copy of the bill of lading must accompany a shipment at all times while in your (or your agent's) possession. When you load the shipment upon a vehicle for transportation, the bill of lading must be in the possession of the driver responsible for the shipment.

(d) You must retain bills of lading for at least one year from the date you created the bill of lading.

Weighing the Shipment

§ 375.505 Must I determine the weight of a shipment?

(a) When you transport household goods on a non-binding estimate dependent upon the shipment weight, you must determine the weight of each shipment transported before the assessment of any charges.

(b) You must weigh the shipment upon a certified scale.

§ 375.507 What is a certified scale?

A certified scale is any scale designed for weighing motor vehicles, including trailers or semi-trailers not attached to a tractor, and certified by an authorized scale inspection and licensing authority (e.g., a State). A certified scale may also be a platform or warehouse type scale properly inspected and certified.

§ 375.509 How must I determine the weight of a shipment?

(a) You must weigh the shipment by using one of the following two methods:

(1) *First method—origin weigh.* You determine the difference between the tare weight of the vehicle before loading at the origin of the shipment and the gross weight of the same vehicle after loading the shipment.

(2) *Second method—back weigh.* You determine the difference between the gross weight of the vehicle with the shipment loaded and the tare weight of the same vehicle after you unload the shipment.

(b) The following three conditions must exist for both the tare and gross weighings:

(1) The vehicle must have installed or loaded all pads, dollies, hand trucks, ramps, and other equipment required in the transportation of the shipment.

(2) The driver and other persons must be off the vehicle at the time of either weighing.

(3) The fuel tanks on the vehicle must be full at the time of each weighing, except when you use the *first method—origin weigh,* in paragraph (a)(1) of this section, where the tare weighing is the first weighing performed, you must refrain from adding fuel between the two weighings.

(c) You may detach the trailer of a tractor-trailer vehicle combination from the tractor and the trailer weighed separately at each weighing provided the length of the scale platform is adequate to accommodate and support the entire trailer at one time.

(d) You must use the net weight of shipments transported in containers. You must calculate the difference between the tare weight of the container (including all pads, blocking and bracing used in the transportation of the shipment) and the gross weight of the container with the shipment loaded in the container.

§ 375.511 May I use an alternative method for shipments weighing 454 kilograms or less?

For shipments weighing 454 kilograms or less (1,000 pounds or less), you may weigh the shipment upon a platform or warehouse certified scale before loading for transportation or after unloading.

§ 375.513 Must I give the individual shipper an opportunity to observe the weighing?

You must give the individual shipper or any other person responsible for the payment of the freight charges the right to observe all weighings of the shipment. You must advise the individual shipper, or any other person entitled to observe the weighings, where and when each weighing will occur. You must give the person who will observe the weighings a reasonable opportunity to be present to observe the weighings.

§ 375.515 May an individual shipper waive his/her right to observe each weighing?

An individual shipper has the privilege to waive his/her right to observe any weighing or reweighing. This does not affect any other rights of the individual shipper under this part or otherwise.

§ 375.517 May an individual shipper demand reweighing?

After you inform the individual shipper of the billing weight and total charges and before actually beginning to unload a shipment weighed at origin (*first method* under § 375.509(a)(1), the individual shipper may demand a reweigh. You must base your freight bill charges upon the reweigh weight.

§ 375.519 Must I obtain weight tickets?

(a) Yes, you must obtain weight tickets whenever we require you to weigh the shipment in accordance with this subpart. You must obtain a separate weight ticket for each weighing. The weigh master must sign each weight ticket. Each weight ticket must contain the following six items:

(1) The complete name and location of the scale.

(2) The date of each weighing.

(3) The identification of the weight entries as being the tare, gross, or net weights.

(4) The company or carrier identification of the vehicle.

(5) The last name of the individual shipper as it appears on the bill of lading.

(6) The carrier's shipment registration or bill of lading number.

(b) When both weighings are performed on the same scale, one weight ticket may be used to record both weighings.

(c) As part of the file on the shipment, you must retain the original weight ticket or tickets relating to the determination of the weight of a shipment.

(d) All freight bills you present to an individual shipper must include true copies of all weight tickets obtained in the determination of the shipment weight in order to collect any shipment charges dependent upon the weight transported.

§ 375.521 What must I do if an individual shipper wants to know the actual weight or charges for a shipment before I tender delivery?

(a) You must comply with a request of an individual shipper of a shipment being transported on a collect-on-delivery basis who specifically requests notification of the actual weight or volume and charges on a shipment. This requirement is conditioned upon the individual shipper supplying you with an address or telephone number where the individual shipper will receive the communication. You must make your notification by telephone, telegram, or in person.

(b) The individual shipper must receive your notification at least one full 24-hour day before any tender of the shipment for delivery, excluding Saturdays, Sundays and Federal holidays.

(c) You may disregard the 24-hour notification requirement on shipments subject to any one of the following three conditions:

(1) Back weigh (when you weigh an individual shipper's shipment at its destination).

(2) Pickup and delivery encompassing two consecutive week days, if the individual shipper agrees.

(3) Maximum payment amounts at time of delivery of 110 percent of the estimated charges, if the individual shipper agrees.

Subpart F—Transportation of Shipments

§ 375.601 Must I transport the shipment in a timely manner?

Yes. Transportation in a timely manner is also known as "reasonable dispatch service." You must provide reasonable dispatch service to all individual shippers, except for transportation on the basis of guaranteed pickup and delivery dates.

§ 375.603 When must I tender a shipment for delivery?

You must tender a shipment for delivery for an individual shipper on the agreed delivery date or within the period of time specified on the bill of lading. Upon the request or concurrence of the individual shipper, you may waive this requirement.

§ 375.605 How must I notify an individual shipper of any service delays?

(a) When you are unable to perform either the pickup or delivery of a shipment on the dates or during the periods of time specified in the order for service and as soon as the delay becomes apparent to you, you must notify the individual shipper of the delay, at your expense, in one of the following three ways:

(1) By telephone.

(2) By telegram.

(3) In person.

(b) At the time you notify the individual shipper of the delay, you must advise the individual shipper of the dates or periods of time you expect to be able to pickup and/or deliver the shipment. You must consider the needs of the individual shipper in your advisement. You also must do the following six things:

(1) If your notification of delay occurs before the pickup of the shipment, you must amend the order for service.

(2) If your notification of delay occurs after you pick up the shipment, you or your agent must notify the individual shipper of the delay.

(3) You must prepare a written record of the date, time, and manner of notification.

(4) You must prepare a written record of your amended date or period of time for delivery.

(5) You must retain these records as a part of your file on the shipment. The retention period is one year from the date of notification.

(6) You must furnish a true copy to the individual shipper by first class mail or in person.

§ 375.607 What must I do if I am able to tender a shipment for final delivery more than 24 hours before a specified date or period of time?

(a) You may ask the individual shipper to accept an early delivery date. If the individual shipper does not concur with your request or the individual shipper does not request an early delivery date, you may, at your discretion, place a shipment in storage under your own account and at your own expense in a warehouse located near the destination of the shipment. If you place the shipment in storage, you must comply with paragraph (b) of this section. You may comply with paragraph (c) of this section, at your discretion.

(b) You must immediately notify the individual shipper of the name and address of the warehouse where you place the shipment. You must make and keep a record of your notification as a part of your shipment records. You have responsibility for the shipment under the terms and conditions of the bill of lading. You are responsible for the charges for redelivery, handling, and storage until you make final delivery.

(c) You may limit your responsibility to the agreed delivery date or the first day of the period of time of delivery as specified in the bill of lading.

§ 375.609 What must I do for shippers who store household goods in transit?

(a) If you are holding goods for storage-in-transit (SIT) and the period of time is about to expire, you must comply with this section.

(b) You must notify the individual shipper, in writing of the following four items:

(1) The date of conversion to permanent storage.

(2) The existence of a nine-month period after the date of conversion to permanent storage when the individual shipper may file claims against you for loss or damage occurring to the goods in transit or during the storage-in-transit period.

(3) The fact your liability is ending.

(4) The fact the individual shipper's property will be subject to the rules, regulations, and charges of the warehouseman.

(c) You must make this notification at least 10 days before the expiration date of either one of the following two periods:

(1) The specified period of time when the goods are to be held in storage.

(2) The maximum period of time provided in your tariff for storage-in-transit.

(d) You must notify the individual shipper by certified mail, return receipt requested.

(e) If you are holding household goods in storage-in-transit for a period of time less than 10 days, within one day before the expiration date of the specified time when the goods are to be held in such storage, you must give notification to the individual shipper of the information specified in paragraph (b) of this section.

(f) You must maintain a record of notifications as part of the records of the shipment.

(g) Your failure or refusal to notify the individual shipper will automatically

effect a continuance of your carrier liability according to the applicable tariff provisions with respect to storage-in-transit, until the end of the day following the date when you actually gave notice.

Subpart G—Delivery of Shipments

§ 375.701 May I provide for a release of liability on my delivery receipt?

(a) No. Your delivery receipt or shipping document must not contain any language purporting to release or discharge you or your agents from liability.

(b) The delivery receipt may include a statement the property was received in apparent good condition except as noted on the shipping documents.

§ 375.703 What is the maximum collect-on-delivery amount I may demand at the time of delivery?

(a) On a binding estimate, the maximum amount is the exact estimate of the charges. You may specify the form of payment acceptable to you.

(b) On a non-binding estimate, the maximum amount is 110 percent of the non-binding estimate of the charges. You may specify the form of payment acceptable to you.

§ 375.705 If a shipment is transported on more than one vehicle, what charges may I collect at delivery?

(a) At your discretion, you may do one of the following three things:

(1) You may defer the collection of all charges until you deliver the entire shipment.

(2) If you have determined the charges for the entire shipment, you may collect the portion of the shipment tendered for delivery. You must determine a percentage of the charges represented by the portion of the shipment tendered for delivery.

(3) If you cannot reasonably calculate the charges for the entire shipment, you must determine the charges for the portion of the shipment being delivered. You must collect this amount. The total charges you assess for the transportation of the separate portions of the shipment must not be more than the charges due for the entire shipment.

(b) In the event of the loss or destruction of any part of a shipment transported on more than one vehicle, you must collect the charges as provided in § 375.707.

§ 375.707 If a shipment is partially lost or destroyed, what charges may I collect at delivery?

(a) If a shipment is partially lost or destroyed, you may first collect your freight charges for the entire shipment, if you choose. If you do this, you must refund the portion of your published freight charges corresponding to the portion of the lost or destroyed shipment (including any charges for accessorial or terminal services), at the time you dispose of claims for loss, damage, or injury to the articles in the shipment under 49 CFR part 370.

(b) To calculate the amount of charges applicable to the shipment as delivered, you must multiply the percentage corresponding to the delivered shipment by the total charges applicable to the shipment tendered by the individual shipper. The following four conditions also apply:

(1) If the charges computed exceed the charges otherwise applicable to the shipment as delivered, the lesser of those charges must apply. This will apply only to the transportation of household goods and not to charges for other services the individual shipper ordered.

(2) You must collect any specific valuation charge due.

(3) You may disregard paragraph (b) of this section if loss or destruction was due to an act or omission of the individual shipper.

(4) You must determine, at your own expense, the proportion of the shipment not lost or destroyed in transit.

(c) The individual shipper's rights are in addition to, and not in lieu of, any other rights the individual shipper may have with respect to a shipment of household goods you or your agent(s) partially lost or destroyed in transit. This applies whether or not the individual shipper exercises its rights provided in paragraph (a) of this section.

§ 375.709 If a shipment is totally lost or destroyed, what charges may I collect at delivery?

(a) You are forbidden from collecting, or requiring an individual shipper to pay, any freight charges (including any charges for accessorial or terminal services) when a household goods shipment is totally lost or destroyed in transit. The following three conditions also apply:

(1) You must collect any specific valuation charge due.

(2) You may apply paragraph (a) of this section only to the transportation of household goods and not to charges for other services the individual shipper ordered.

(3) You may disregard paragraph (a) of this section if loss or destruction was due to an act or omission of the individual shipper.

(b) The individual shipper's rights are in addition to, and not in lieu of, any other rights the individual shipper may have with respect to a shipment of household goods you or your agent(s) totally lost or destroyed in transit. This applies whether or not the individual shipper exercises its rights provided in paragraph (a) of this section.

Subpart H—Collection of Charges

§ 375.801 What types of charges apply to subpart H?

(a) This subpart applies to all shipments, except as provided in paragraph (b) of this section.

(b) *Exception.* This subpart does not apply to collect-on-delivery shipments subject to the 110 percent rule for non-binding estimates.

§ 375.803 How must I present my freight or expense bill?

You must present your freight or expense bill in accordance with § 377.205 of this subchapter.

§ 375.805 If I am forced to relinquish a collect-on-delivery shipment before the payment of ALL charges, how do I collect the balance?

On "collect-on-delivery" shipments, you must present your freight bill for all transportation charges within seven days, measured from the date the shipment was delivered at its destination. This time period excludes Saturdays, Sundays, and Federal holidays.

§ 375.807 What actions may I take to collect the charges upon my freight bill?

(a) You must present a freight bill within 15 days (excluding Saturdays, Sundays, and Federal holidays) of the date of delivery of a shipment at its destination.

(b) The credit period must be seven days (excluding Saturdays, Sundays, and Federal holidays).

(c) You must provide in your tariffs the following four things:

(1) You must automatically extend the credit period to a total of 30 calendar days for any shipper who has not paid your freight bill within the 7-day period.

(2) The individual shipper will be assessed a service charge by you equal to one percent of the amount of the freight bill, subject to a $20 minimum charge, for the extension of the credit period.

(3) You must deny credit to any shipper who fails to pay a duly presented freight bill within the 30-day period. You may grant credit to the individual shipper when the individual shipper satisfies he/she will promptly pay all future freight bills duly presented.

(4) You must ensure all payments of freight bills are strictly in accordance

with the rules and regulations of this part for the settlement of your rates and charges.

Subpart I—Filing Annual Arbitration Reports

§ 375.901 What is an annual arbitration report?

An annual arbitration report describes the results of all arbitrations requested and concluded in the previous calendar year.

§ 375.903 Who must file an annual arbitration report?

If you pickup or deliver shipments for individual shippers during the calendar year, you must file an annual arbitration report.

§ 375.905 Where and when do I file an annual arbitration report?

You must file an annual arbitration report on, or before, March 31 of each year. Send the report to the following address: Annual Arbitration Report, Licensing and Insurance Division (HIA–30), Office of Motor Carrier Information Analysis, Federal Highway Administration, 400 Virginia Avenue, S.W., Suite 600, Washington, D.C. 20024.

§ 375.907 How must I prepare and submit an annual arbitration report?

You must include in the annual arbitration report the following nine items:

(a) The total number of shipments transported for the calendar year covered by the report.

(b) The total number of claims in excess of $1000.

(c) The total number of claims of $1000 or less.

(d) The number of requests for arbitration on claims of $1000 or less.

(e) The results of those arbitrations (list claim amount and disposition).

(f) The number of requests for arbitration on claims in excess of $1000.

(g) The number of requests for arbitration on claims in excess of $1000 you accepted.

(h) The results of the arbitrations you accepted and reported under paragraph (g) of this section, listing the claim amount and disposition of the arbitration you accepted.

(i) An oath, completed by you. The oath must be signed by one of your officers (e.g., President, Vice President, Secretary/Treasurer, Owner, Partner). The oath must be substantially in the following form:

Household Goods Carrier Oath (Must be Completed by a Carrier Official)

I, (*name and title of carrier official*), certify all information supplied in this report is true, correct and complete to the best of my knowledge. Further, I certify I am qualified and authorized to certify the accuracy of the data. I know failing to file a complete and truthful report with the Federal Highway Administration could result in the assessment of civil penalties under 49 U.S.C. 14901 and criminal penalties under 18 U.S.C. 1001.

Signature _____

Title _____

Date _____

Subpart J—Penalties

§ 375.1001 What penalties do we impose for violations of this part?

(a) The penalty provisions of 49 U.S.C. Chapter 149, Civil and Criminal Penalties, apply to this part. These penalties do not overlap. The penalties are restated in this section for your convenience.

(b) You, or an officer, employee, or agent of yours, who by any means tries to evade regulation provided under this part for carriers or brokers, are/is liable to the United States for a civil penalty of $200 for the first violation and at least $250 for a subsequent violation.

(c) When another civil penalty is not provided under this part, if you violate a regulation or order under this part, you are liable to the United States for a civil penalty of $500 for each violation. A separate violation occurs each day the violation continues.

(d) An act or omission committed by your corporation is the same as an act or omission by your director, officer, receiver, trustee, lessee, agent, or employee providing transportation or service. The penalties of this part apply to violations by the corporation. The actions and omissions of individuals acting for or employed by you are considered to be the actions and omissions of you as well as the individual, when the individual acts in the scope of his or her employment.

(e) If you, as a provider of transportation of household goods, or a receiver or trustee of yours, fail(s) or refuse(s) to comply with any regulation in this part relating to protection of individual shippers, you, the receiver, or the trustee are/is liable to the United States for a civil penalty of not less than $1,000 for each violation and for each additional day while the violation continues.

(f) You are liable to the United States for a civil penalty of not less than $2,000 for each violation, and of not less than $5,000 for each subsequent violation, if you knowingly engage in or knowingly authorize an agent or other person to do one of the following three things:

(1) Falsify documents used in the transportation of household goods which evidence the weight of a shipment.

(2) Charge for accessorial services you failed to perform.

(3) Charge for accessorial services for which you are not entitled to be compensated because such services are not reasonably necessary in the safe and adequate movement of the shipment.

(g) You are liable to the United States for a civil penalty of not more than $5,000, if you must make a report to us, answer a question, or make, prepare, or preserve a record under this part, and you or an officer, agent, or employee of yours, commit(s) one of the following seven acts:

(1) Does not make the report.

(2) Does not specifically, completely, and truthfully answer the question in 30 days from the date we require the question to be answered.

(3) Does not make, prepare, or preserve the record in the form and manner prescribed.

(4) Falsifies, destroys, mutilates, or changes the report or record.

(5) Files a false report or record.

(6) Makes a false or incomplete entry in the record about a business related fact or transaction.

(7) Makes, prepares, or preserves a record in violation of our regulations or orders.

(h) In determining and negotiating the amount of a civil penalty under paragraphs (e) and (g) of this section concerning transportation of household goods, we must take into account the following seven things:

(1) The degree of your culpability.

(2) Your prior conduct.

(3) The degree of harm you caused an individual shipper or shippers.

(4) Your ability to pay.

(5) The effect on your ability to do business.

(6) Whether you have adequately compensated the individual shipper before we began our proceeding.

(7) Other matters as fairness may require.

Appendix A—Your Rights and Responsibilities When You Move

You must furnish this document to prospective individual shippers as required by 49 CFR 375.213, or the text as it appears in this appendix may be reprinted in a form and manner chosen by you, the motor common carrier of household goods. You do not have to italicize titles of sections.

YOUR RIGHTS AND RESPONSIBILITIES WHEN YOU MOVE

OMB No. 2125—____, Expires on ____, 200 ____.

Furnished By Your Mover, As Required By Federal Law.

Authority: 49 U.S.C. 13501 *et seq.*, 13704, 14104; and sec. 204, Pub. L. 104–88, 109 Stat. 803.

Why Was I Given This Pamphlet?

The Federal Highway Administration's (FHWA) regulations protect consumers on interstate moves and define the rights and responsibilities of consumers and household goods carriers.

The household goods carrier (mover) gives you this booklet to provide information about your rights and responsibilities as an individual shipper of household goods. You should talk to your mover if you have further questions. The mover will also furnish you with another booklet describing its procedure for handling your questions and complaints. The booklet will include a telephone number you can call to obtain additional information about your move.

What Is Included in This Pamphlet?

In this pamphlet, you will find a discussion of each of these topics.

Subpart A—General Requirements

Who must follow the regulations?
What definitions are used in this pamphlet?

Subpart B—Before Requesting Services From any Mover

What is my mover's normal liability for loss and damage when my mover accepts goods from me?
What actions by me limit or reduce my mover's normal liability?
May my mover have agents?
What items must be in my mover's advertisements?
How must my mover handle complaints and inquiries?
Do I have the right to inspect my mover's tariffs (schedules of charges) applicable to my move?
Must my mover have an arbitration program?
Must my mover inform me about my rights and responsibilities under Federal law?
What other information must my mover provide to me?
How must my mover collect charges?
May my mover collect charges upon delivery?
May my mover extend credit to me?
May my mover accept charge cards for my payments?

Subpart C—Service Options Provided

What service options may my mover provide?
If my mover sells excess liability insurance coverage, what must my mover do?

Subpart D—Estimating Charges

Must my mover estimate the transportation and accessorial charges for my move?
How must my mover estimate charges under the regulations?
What payment arrangements must my mover have in place to secure delivery of my household goods shipment?

Subpart E—Pickup of My Shipment of Household Goods

Must my mover write up an order for service?
Should I or my mover write up an inventory of the shipment?
Must my mover write up a bill of lading?
Should I reach an agreement with my mover about pickup and delivery times?
Must my mover determine the weight of my shipment?
How must my mover determine the weight of my shipment?

Subpart F—Transportation of My Shipment

Must my mover transport the shipment in a timely manner?
What must my mover do if it is able to deliver my shipment more than 24 hours before I am able to accept delivery?
What must my mover do for me when I store household goods in transit?
What must my mover do if I want to know the actual weight or charges for my shipment before delivery?

Subpart G—Delivery of My Shipment

May my mover ask me to sign a delivery receipt purporting to release it from liability?
What is the maximum collect-on-delivery amount my mover may demand I pay at the time of delivery?
If my shipment is transported on more than one vehicle, what charges may my mover collect at delivery?
If my shipment is partially or totally lost or destroyed, what charges may my mover collect at delivery?
How must my mover calculate the charges applicable to the shipment as delivered?

Subpart H—Collection of Charges

Does this subpart apply to all shipments?
How must my mover present its freight or expense bill to me?
If I requested my mover to relinquish a collect-on-delivery shipment before the payment of ALL charges, how must my mover collect the balance?
What actions may my mover take to collect from me the charges upon its freight bill?
Do I have a right to file a claim to recover money for property my mover lost or damaged?

Subpart I—Reports My Mover Files With the FHWA

What is an annual arbitration report?
Who must file an annual arbitration report?
Where and when does my mover file an annual arbitration report?
What is included in my mover's annual arbitration report?
How may I get a copy of my mover's annual arbitration report?

Subpart J—Resolving Disputes With My Mover

What may I do to resolve disputes with my mover?

Subpart K—What Else Should I Know?

What if I have more questions?
What are the most important points I should remember from this pamphlet?

Subpart A—General Requirements

Who Must Follow the Regulations?

The regulations inform motor common carriers engaged in the transportation of household goods (movers) what standards the movers must follow when offering services to you. You are not directly subject to the regulations. Your mover may be required to force you to pay on time, though. The regulations only apply to your mover when the mover transports your household goods by motor vehicle in interstate commerce.

What Definitions Are Used in This Pamphlet?

Accessorial (Additional) Services—These are services such as packing, appliance servicing, unpacking, or piano stair carries you request to be performed (or are necessary because of landlord requirements or other special circumstances). Charges for these services are in addition to the transportation charges.

Advanced Charges—These are charges for services not performed by the mover, but by someone else. A professional, craftsman, or other third party may perform these services at your request. The mover pays for these services and adds the charges to your bill of lading charges.

Advertisement—This is any communication to the public in connection with an offer or sale of any interstate transportation service. This will include written or electronic database listings of your mover's name, address, and telephone number in an on-line database.

Agent—A local moving company authorized to act on behalf of a larger, national company.

Appliance Service—The preparation of major electrical appliances to make them safe for shipment.

Bill of Lading—The receipt for your goods and the contract for its transportation.

Carrier—The mover transporting your household goods.

Certified Scale—Any scale designed for weighing motor vehicles, including trailers or semi-trailers not attached to a tractor, and certified by an authorized scale inspection and licensing authority. A certified scale may also be a platform or warehouse type scale properly inspected and certified. An on-board trailer scale is not a certified scale.

C.O.D. (Cash on Delivery)—This means payment is required at the time of delivery at the destination residence (or warehouse) for transportation for you, as an individual shipper.

Estimate, Binding—This is an agreement made in advance with your mover. It guarantees the total cost of the move based upon the quantities and services shown on the estimate.

Estimate, Non-Binding—This is what the carrier believes the cost will be based upon the estimated weight of the shipment and the accessorial services requested. A non-binding estimate is not binding on the mover. The final charges will be based upon the actual weight of your shipment and the tariff provisions in effect.

Expedited Service—This is an agreement with the mover to perform transportation by a set date in exchange for charges based upon a higher minimum weight.

Flight Charge—An extra charge for carrying items up or down flights of stairs.

Guaranteed Pickup and Delivery Service—An additional level of service featuring

guaranteed dates of service. Your mover will provide reimbursement to you for delays. This premium service is often subject to minimum weight requirements.

High Value Article—These are items included in a shipment valued at more than $220 per kilogram ($100 per pound).

Household goods as used in connection with transportation, means the personal effects or property used, or to be used, in a dwelling. The personal effects and property must be a part of the equipment or supplies of such a dwelling or similar property.

Household Goods Agents—There are two types of household goods agents.

(1) A *prime agent* provides a transportation service for your mover or on its behalf, including the selling of, or arranging for, a transportation service. Your mover permits or requires the agent to provide services under the terms of an agreement or arrangement with them. A prime agent does not provide services on an emergency or temporary basis.

(2) An *emergency or temporary agent* provides origin or destination services on your mover's behalf, excluding the selling of, or arranging for, a transportation service. Your mover permits or requires the agent to provide such services under the terms of an agreement or arrangement with them. The agent performs such services only on an emergency or temporary basis.

Inventory—The detailed descriptive list of your household goods showing the number and condition of each item.

Linehaul Charges—The charges of the vehicle transportation portion of your move. These charges apply in addition to the accessorial service charges.

Long Carry—An added charge for carrying articles excessive distances between the mover's vehicle and your residence.

May—An option. You or your mover may do something, but it is not a requirement.

Mover—A motor common carrier engaged in the transportation of household goods and its household goods agents.

Must—A legal obligation. You or your mover must do something.

Order for Service—The document authorizing the mover to transport your household goods.

Order (Bill of Lading) Number—The number used to identify and track your shipment.

Peak Season Rates—Higher linehaul charges applicable during the summer months.

Pickup and Delivery Charges—Separate transportation charges applicable for transporting your shipment between the storage-in-transit warehouse and your residence.

Reasonable Dispatch—The performance of transportation on the dates, or during the period of time, agreed upon by you and your mover and shown on the Order For Service/Bill of Lading. For example, if your mover deliberately withholds any shipment from delivery after you offer to pay the binding estimate or 110 percent of a non-binding estimate, your mover has not transported the goods with reasonable dispatch. The term "reasonable dispatch" excludes transportation provided under your mover's tariff provisions requiring guaranteed service dates. Your mover will have the defenses of force majeure, i.e., superior or irresistible force, as construed by the courts. "Force majeure" in this context, means a defense protecting the parties in the event that a part of the contract cannot be performed due to causes which are outside the control of the parties and could not be avoided by exercise of due care

Should—A recommendation. We recommend you or your mover do something, but it is not a requirement.

Shuttle Service—The use of a smaller vehicle to provide service to residences not accessible to the mover's normal linehaul vehicles.

Storage-In-Transit (SIT)—The temporary warehouse storage of your shipment pending further transportation. For example, you may incur these charges if your new home is not quite ready to occupy. You must specifically request SIT service. This may not exceed a total of 180 days of storage. You will be responsible for the added charges for SIT service, as well as the warehouse handling and final delivery charges.

Tariff—A schedule of rates or charges.

Transportation of Household Goods—This means either one of the following two things:

(1) You arrange and pay for transportation of household goods. This may include transportation from a factory or store, when you purchase the household goods with the intent to use the goods in your own dwelling.

(2) Another party arranges and pays for the transportation of your household goods.

Valuation—The degree of "worth" of the shipment. The valuation charge compensates the mover for assuming a greater degree of liability than is provided for in its base transportation charges.

Warehouse Handling—An additional charge applicable each time SIT service is provided. This charge compensates the mover for the physical placement and removal of items within the warehouse.

We, Us, and Our—The Federal Highway Administration (FHWA).

You and Your—You are an individual shipper of household goods. You are a consignor or consignee of a household goods shipment and your mover identifies you as such in the bill of lading contract. You own the goods being transported.

Where may other terms used in this pamphlet be defined? You may find other terms used in this pamphlet defined in 49 U.S.C. 13102. The definitions in this statute control. If terms are used in this pamphlet and the terms are neither defined here nor in 49 U.S.C. 13102, the terms will have the ordinary practical meaning of such terms.

Subpart B—Before Requesting Services From Any Mover

What is my mover's normal liability for loss and damage when my mover accepts goods from me?

In general, your mover is legally liable for loss or damage if it happens during performance of any of these services identified on your mover's lawful bill of lading:

(1) Transportation of household goods.

(2) Storage-in-transit of household goods, including incidental pickup or delivery service.

(3) Servicing of an appliance or other article, if your mover or its agent performs the servicing.

Your mover is liable for loss of, or damage to, any household goods to the extent provided in the current Surface Transportation Board's Released Rates Order. Your mover may have additional liability if your mover sells excess liability insurance to you.

All moving companies are required to assume liability for the value of the goods transported. However, there are different levels of liability, and you should be aware of the amount of protection provided and the charges for each option.

Basically, most movers offer four different levels of liability (options 1 through 4, below) under the terms of their tariffs and pursuant to the Surface Transportation Board's Released Rates Orders. These orders govern the moving industry.

Option 1: Released Value

This is the most economical protection option available. This no-additional cost option provides minimal protection. Under this option, the mover assumes liability for no more than $1.32 cents per kilogram (60 cents per pound), per article. Loss or damage claims are settled based upon the kilogram (or pound) weight of the article multiplied by $1.32 cents per kilogram (60 cents per pound). For example, if your mover lost or destroyed a 4.54 kilogram (10 pound) stereo component valued at $1000, your mover would be liable for no more than $6.00. Obviously, you should think carefully before agreeing to such an arrangement. There is no extra charge for this minimal protection, but you must sign a specific statement on the bill of lading agreeing to it.

Option 2: Declared Value

Under this option, the valuation of your shipment is based upon the total weight of the shipment times $2.75 per kilogram ($1.25 per pound). For example, a 1,814.4 kilogram (4,000 pound) shipment would have a maximum liability value of $5,000. Any loss or damage claim under this option is settled based upon the depreciated value of the lost or damaged item(s) up to the maximum liability value based upon the weight of the entire shipment. Under this option, if you shipped a 4.54 kilogram (10 pound) stereo component originally costing $1000, your mover would be liable for up to $1000, based upon the depreciated value of the item.

Unless you specifically agree to other arrangements, the mover must assume liability for the entire shipment based upon this option. Also, the mover is entitled to charge you $7.00 for each $1000 (or fraction thereof) of liability assumed for shipments transported under this option. In the example above, the valuation charge for a shipment valued at $5,000 would be $35.00. Under this option, your shipment is protected based upon its depreciated value, and the law allows your mover to charge you a fee for this extra protection.

Option 3: Lump Sum Value

Under this option, similar to Option 2, if the value of your shipment exceeds $2.75 per kilogram ($1.25 per pound) times the weight of the shipment, you may obtain additional liability protection from your mover. You do this by declaring a specific dollar value for your shipment. The amount you declare must exceed $2.75 per kilogram ($1.25 per pound) times the weight of the shipment. The amount of value you declare is subject to the same valuation charge ($7.00 per $1000) as described in Option 2. For example, if you declare your 1,814.4 kilogram (4,000 pound) shipment is worth $10,000 (instead of the $5,000 under Option 2), the mover will charge you $7.00 for each $1000 of declared value, or $70.00 for this increased level of liability. If you ship unusually expensive articles, you may wish to declare this extra value. You must make this declaration in writing on the bill of lading.

Option 4: Full Value Protection

Many movers offer a fourth level of added-value protection, often referred to as "full value protection" or "full replacement value." If you elect to purchase full value protection, when your mover loses, damages or destroys your articles, your mover must repair, replace with like items, or settle in cash at the current market replacement value, regardless of the age of the lost or damaged item. Unlike the other options, depreciation of the lost or damaged item is not a factor in determining replacement value when the shipment is moved under full value protection.

The cost for full value protection is approximately $8.50 per $1000 of declared value; however, your minimum value declared must be equal to the weight of the shipment multiplied by $7.70 per kilogram ($3.50 per pound). This is further subject to a minimum declaration of $21,000. For example, if your shipment weighs 2,268 kilograms (5,000 pounds), the minimum declared value must be at least $21,000. The exact cost for full value protection may vary by mover and may be further subject to various deductible levels of liability. These liability levels may reduce your cost. Ask your mover for the details of its specific plan.

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Under these four options, movers are permitted to limit their liability for loss or damage to articles of extraordinary value, unless you specifically list these articles on the shipping documents. An article of extraordinary value is any item whose value exceeds $220 per kilogram ($100 per pound). Ask your mover for a complete explanation of this limitation before your move. It is your responsibility to study this provision carefully and to make the necessary declaration.

These optional levels of liability are not insurance agreements governed by State insurance laws, but instead are authorized under Released Rates Orders of the Surface Transportation Board of the U.S. Department of Transportation.

In addition to these options, some movers may also offer to sell, or procure for you, separate liability insurance from a third-party insurance company when you release your shipment for transportation at the minimum released value of $1.32 per kilogram (60 cents per pound) per article (Option 1). This is not valuation coverage governed by Federal law, but optional insurance regulated under State law. If you purchase this separate coverage, in the event of loss or damage being the mover's responsibility, the mover is liable only for an amount not exceeding $1.32 per kilogram (60 cents per pound) per article, and the balance of the loss is recoverable from the insurance company up to the amount of insurance purchased. The mover's representative can advise you of the availability of such liability insurance and the cost.

If you purchase liability insurance from or through your mover, the mover is required to issue a policy or other written record of the purchase and to provide you with a copy of the policy or other document at the time of purchase. If the mover fails to comply with this requirement, the mover becomes fully liable for any claim for loss or damage attributed to its negligence.

What actions by me limit or reduce my mover's normal liability?

Your actions may limit or reduce your mover's normal liability, under the following three circumstances:

(1) You include perishable household goods without your mover's knowledge.

(2) You ship household goods valued at more than $1.32 per kilogram (60 cents per pound) per article.

(3) You fail to notify your mover in writing of articles valued at more than $220 per kilogram ($100 per pound).

In such cases, you will be entitled to full recovery up to the declared value of the article or articles, not to exceed the declared value of the entire shipment.

May my mover have agents?

Yes, your mover may have agents. If your mover has agents, your mover must have written agreements with its prime agents. Your mover and its retained prime agent must sign their agreements. Copies of all your mover's prime agent agreements must be in its files for a period of at least 24 months following the date of termination of each agreement.

What items must be in my mover's advertisements?

Your mover must publish and use only truthful, straightforward, and honest advertisements. Your mover must include certain information in all advertisements for all services (including any accessorial services incidental to or part of interstate transportation). Your mover must require each of its agents to include the same information in its advertisements. The information must include the following two pieces of information about your mover:

(1) Name or trade name of the company or individual, under whose U.S. DOT number the advertised service will originate.

(2) U.S. DOT number, assigned by the FHWA authorizing your mover to operate. Your mover must display the information as: USDOT No. (assigned number.)

How must my mover handle complaints and inquiries?

All movers are expected to respond promptly to complaints or inquiries from you, its customer. Should you have a complaint or question about your move, you should first attempt to obtain a satisfactory response from the mover's local agent, the sales representative who handled the arrangements for your move, or the driver assigned to your shipment.

If for any reason you are unable to obtain a satisfactory response from one of these persons, you should then contact the mover's principal office. When you make such a call, be sure to have available your copies of all the documents relating to your move. *Particularly important is the number assigned to your shipment by your mover.*

Interstate movers are also required to offer neutral arbitration as a means of resolving consumer disputes. Your mover is required to provide you with information regarding its arbitration program.

All interstate moving companies are required to maintain a complaint and inquiry procedure to assist their customers. At the time you make the arrangements for your move, you should ask the mover's representative for a description of the mover's procedure, the telephone number to be used to contact the carrier, and whether the mover will pay for such telephone calls. Your mover's procedure must include the following four things:

(1) A communications system allowing you to communicate with your mover's principal place of business by telephone.

(2) A telephone number.

(3) A clear and concise statement about who must pay for complaint and inquiry telephone calls.

(4) A written or electronic record system for recording all inquiries and complaints received from you by any means of communication. Your mover must give you a clear and concise written description of its procedure.

Do I have the right to inspect my mover's tariffs (schedules of charges) applicable to my move?

The Surface Transportation Board, another Federal agency, requires your mover to advise you of your right to inspect your mover's tariffs (its schedules of rates or charges) governing your shipment. Mover tariffs are made a part of the contract of carriage (bill of lading) between you and the mover. You may inspect the tariff at the mover's facility, or, upon request, the mover will furnish you a free copy of any tariff provision containing the mover's rates, rules, or charges governing your shipment. The terms of the tariff cannot be changed.

Tariffs may include provisions limiting the mover's liability. This would generally be described in a section on declaring value on the bill of lading. A second tariff may set the time periods for filing claims. This would generally be described in Section 6 on the reverse side of a bill of lading. A third tariff may reserve your mover's right to assess additional charges for additional services performed. For non-binding estimates, another tariff may base charges upon the

exact weight of the goods transported. Your mover may have other tariffs, too. Please refer to your mover's tariffs for exactly what those might be.

Must my mover have an arbitration program?

Your mover must have an arbitration program for your use. Your mover must establish and maintain an arbitration program with the following eleven minimum elements:

(1) The arbitration program offered to you must prevent your mover from having any special advantage, because you live or work in a place distant from the mover's principal or other place of business.

(2) Before your household goods are tendered for transport, your mover's arbitration program must provide notice to you of the availability of neutral arbitration, including the following three things.

(a) A summary of the arbitration procedure.

(b) Any applicable costs.

(c) A disclosure of the legal effects of election to use arbitration.

(3) Upon your request, your mover must provide forms and information necessary for initiating an action to resolve a dispute under arbitration.

(4) Each person authorized to arbitrate must be independent of the parties to the dispute and capable of resolving such disputes, and your mover must ensure the arbitrator is authorized and able to obtain from you or your mover any material or relevant information to carry out a fair and expeditious decision making process.

(5) You must not be required to pay more than one-half of the arbitration's cost. If the arbitrator makes a determination as to the percentage of payment of the costs for each party in the arbitration decision, the arbitrator will maintain this right.

(6) Your mover must refrain from requiring you to agree to use arbitration before a dispute arises.

(7) Arbitration is binding for claims of $1000 or less, if you request arbitration.

(8) Arbitration is binding for claims of more than $1000, only if you request arbitration and your mover agrees to it.

(9) If all parties agree, the arbitrator may provide for an oral presentation of a dispute by a party or representative of a party.

(10) The arbitrator must render a decision within 60 days of receipt of written notification of the dispute, and a decision by an arbitrator may include any remedies appropriate under the circumstances.

(11) The 60-day period may be extended for a reasonable period if you or your mover fail to provide information in a timely manner.

Your mover must produce and distribute a concise, easy-to-read, accurate summary of its arbitration program.

Must my mover inform me about my rights and responsibilities under Federal law?

Yes, your mover must inform you about your rights and responsibilities under Federal law. Your mover must produce and distribute this document. It is the text and in the general order of appendix A to 49 CFR Part 375.

What other information must my mover provide to me?

Before your mover executes an order for service for a shipment of household goods, your mover must furnish to you the following three documents:

(1) The contents of appendix A, "Your Rights and Responsibilities When You Move," this pamphlet.

(2) A concise, easy-to-read, accurate summary of your mover's arbitration program.

(3) A concise, easy to read, accurate summary of your mover's customer complaint and inquiry handling procedures. Included in this summary must be the following two items:

(a) The main telephone number you may use to communicate with your mover.

(b) A clear and concise statement concerning who must pay for telephone calls.

Your mover may, at its discretion, provide additional information to you.

How must my mover collect charges?

Your mover must issue you an honest, truthful freight or expense bill for each shipment transported. Your mover's freight or expense bill must contain the following 19 items:

(1) Name of the consignor.

(2) Name of the consignees.

(3) Date of the shipment.

(4) Origin point.

(5) Destination points.

(6) Number of packages.

(7) Description of freight.

(8) The weight of the freight, if applicable to the rating of the freight.

(9) The volume of the freight, if applicable to the rating of the freight.

(10) The measurement of the freight, if applicable to the rating of the freight.

(11) Exact rate(s) assessed.

(12) Disclose the actual rates, charges, and allowances for the transportation service, when your mover electronically presents or transmits freight or expense bills to you.

(13) Indicate reductions, allowances, or other adjustments may apply when the actual rate, charge, or allowance is dependent upon the performance of a service by a third party to the transportation arrangement (such as, tendering a volume of freight over a stated period of time), when your mover electronically presents or transmits freight or expense bills to you.

(14) Total charges due.

(15) The nature and amount of any special service charges.

(16) The points where special services were rendered.

(17) Route of movement and name of each carrier participating in the transportation.

(18) Transfer points where shipments moved.

(19) Address where you must pay or address of bill issuer's principal place of business.

Your mover must present its freight or expense bill to you within 15 days of the date of delivery of a shipment at its destination. The computation of time excludes Saturdays, Sundays, and Federal holidays.

If your mover lacks sufficient information to compute its charges, your mover must present its freight bill for payment within 7 days of the date when sufficient information does become available.

May my mover collect charges upon delivery?

Yes. Your mover may set nondiscriminatory rules governing collect-on-delivery service and the collection of collect-on-delivery funds. If you pay your mover at least 110 percent of the approximate costs of a non-binding estimate on a collect-on-delivery shipment, your mover must relinquish possession of the shipment at the time of delivery. Your mover may specify the form of payment acceptable to it.

May my mover extend credit to me?

Your mover may relinquish possession of freight before you pay its tariff charges. Your mover may extend credit to you in the amount of the tariff charges. Your mover must ensure you will pay its tariff charges within the credit period. The credit period must begin on the day following presentation of its freight bill to you. Under Federal regulation, the standard credit period is 15 days, including Saturdays, Sundays, and Federal holidays, except your mover may establish its own standard credit period of up to 30 calendar days. Your mover may also establish a service charge for extending credit, including a minimum service charge. Your mover's service charge only applies when your payments are made after its established standard credit period. For example, if your mover's established standard credit period is less than the maximum 30-calendar-day period, your mover may extend credit including a service charge for the additional time up to the maximum 30-calendar-day period. If your mover extends such credit, you may elect to postpone payment, including the service charge until the end of the extended credit period.

Your mover may establish additional service charges for payments made after the expiration of the 30-calendar-day period. If your mover establishes additional service charges, your mover must begin to compute service charges on the day following the last day of its standard credit period. If your mover establishes service charges, your mover must notify you about the following three things:

(1) The only purpose of the service charge is to prevent you from having free use of its funds.

(2) The service charge encourages your prompt payment.

(3) Your failure to pay within the credit period will require your mover to determine whether you will comply with the Federal credit regulations in good faith in the future before extending credit again.

May my mover accept charge cards for my payments?

Your mover may allow you to use a charge card for the payment of the freight charges. Your mover may accept charge cards whenever you ship with it under an agreement and tariff requiring payment by cash, certified check, or a cashier's check (a check drawn by a financial institution—bank, credit union, savings & loan, etc.—upon itself

and signed by an officer of the financial institution).

If your mover allows you to pay for a freight or expense bill by charge card, your mover deems such a payment to be equivalent to payment by cash, certified check, or a cashier's check. The charge card plans your mover participates in must be identified in its tariff rules or items permitting the acceptance of the charge cards.

If you cause a charge card issuer to reverse a charge transaction, your mover may consider your action tantamount to forcing your mover to provide an involuntary extension of its credit.

Subpart C—Service Options Provided

What service options may my mover provide?

Your mover may provide any service options it chooses. It is customary for movers to offer several price and service options.

The total cost of your move may increase if you want additional or special services. Before you agree to have your shipment moved under a bill of lading providing special service, you should have a clear understanding with your mover what the additional cost will be. You should always consider whether you may find other movers who may provide the services you require without requiring you to pay the additional charges.

One service option is a *SPACE RESERVATION.* If you agree to have your shipment transported under a space reservation agreement, you will pay for a minimum number of cubic feet of space in the moving van regardless of how much space in the van your shipment actually occupies.

A second option is *EXPEDITED SERVICE.* This aids you if you must have your shipments transported on or between specific dates when the mover could not ordinarily agree to do so in its normal operations.

Another customary service option is *EXCLUSIVE USE OF A VEHICLE.* If for any reason you desire or require your shipment be moved by itself on the mover's truck or trailer, most movers will provide such service.

Still another service option is *GUARANTEED SERVICE ON OR BETWEEN AGREED DATES.* You enter into an agreement with the mover where the mover provides for your shipment to be picked up, transported to destination, and delivered on specific guaranteed dates. If the mover fails to provide the service as agreed, you are entitled to be compensated at a predetermined amount or a daily rate (per diem) regardless of the expense you actually might have incurred as a result of the mover's failure to perform.

Before requesting or agreeing to any of these price and service options, be sure to ask the mover's representatives about the final costs you will pay.

Transport of Shipments on Two or More Vehicles

Although all movers try to move each shipment on one truck, it becomes necessary, at times, to divide a shipment among two or more trucks. This may occur if your mover has underestimated the cubic meters of space required for your shipment and it will not all fit on the first truck. Your mover will pick up the remainder or "leave behind" on a second truck at a later time and this part of your shipment may arrive at the destination at a later time than the first truck. When this occurs, your transportation charges will be determined as if the entire shipment moved on one truck.

If it is important for you to avoid this inconvenience of a "leave behind," be sure your estimate includes an accurate calculation of the cubic meters required for your shipment. Ask your estimator to use a "Table of Measurements" form in making this calculation. Consider asking for a binding estimate. A binding estimate is more likely to be conservative with regard to cubic meters than a non-binding estimate. If the mover offers space reservation service, consider purchasing this service for the necessary amount of space plus some margin for error. In any case, you would be prudent to "prioritize" your goods in advance of the move so the driver will load the more essential items on the first truck if some are left behind.

If my mover sells excess liability insurance coverage, what must my mover do?

If your mover provides the service of selling excess liability insurance, your mover must follow certain regulations.

Your mover, its employees, or its agents, may sell, offer to sell, or procure excess liability insurance coverage for you for loss and damage to your shipment, if both of the following two things are true:

(1) You release the shipment for transportation at a value not exceeding $1.32 per kilogram (60 cents per pound) per article.

(2) You fail to declare a valuation of $2.75 or more per kilogram ($1.25 or more per pound) and pay, or agree to pay, your mover for assuming liability for your shipment equal to the declared value.

Your mover may offer, sell, or procure any type of insurance policy covering loss or damage in excess of its specified liability.

Your mover must issue you a policy or other appropriate evidence of the insurance you purchased. Your mover must provide a copy of the policy or other appropriate evidence to you at the time your mover sells or procures the insurance. Your mover must issue policies written in plain English.

Your mover must clearly specify the nature and extent of coverage under the policy. Your mover's failure to issue you a policy, or other appropriate evidence of insurance you purchased, will subject your mover to full liability for any claims to recover loss or damage attributed to them.

Your mover must provide in its tariffs for the provision of excess liability insurance coverage. The tariff must also provide for the base transportation charge, including its assumption for full liability for the value of the shipment. This would be in the event your mover fails to issue you a policy or other appropriate evidence of insurance at the time of purchase.

Subpart D—Estimating Charges

Must my mover estimate the transportation and accessorial charges for my move?

Your mover must provide you a written estimate of all charges, including transportation, accessorial, and advance charges. Your mover's "rate quote" is not an estimate.

A *binding estimate* is an agreement made in advance with your mover. It guarantees the total cost of the move based upon the quantities and services shown on your mover's estimate.

A *non-binding estimate* is what your mover believes the total cost will be for the move, based upon the estimated weight of the shipment and the accessorial services requested. A non-binding estimate is not binding on the your mover. Your mover will base the final charges upon the actual weight of your shipment and its tariff provisions in effect.

How must my mover estimate charges under the regulations?

Binding Estimates

Your mover may charge you for providing a binding estimate. The binding estimate must clearly describe the shipment and all services provided.

When you receive a binding estimate, you cannot be required to pay any more than the estimated amount. However, if you have requested the mover provide more services than those included in the estimate, the mover may demand full payment for those added services at time of delivery. Such services might include destination charges often not known at origin (i.e., long carry charges, shuttle charges, or extra stair carry charges).

A binding estimate must be in writing and a copy must be made available to you before you move.

If you agree to a binding estimate, you are responsible for paying the charges due by cash, certified check, or a cashier's check. The charges are due your mover at the time of delivery unless the mover agrees, before you move, to extend credit or to accept payment by charge card. If you are unable to pay at the time the shipment is delivered, the mover may place your shipment in storage at your expense until you pay the charges.

Other requirements of binding estimates include the following seven elements:

(1) Your mover must retain a copy of each binding estimate as an addendum to the bill of lading.

(2) Your mover must clearly indicate upon each binding estimate's face the estimate is binding upon you and your mover. Each binding estimate must also clearly indicate on its face the charges shown are the charges to be assessed for only those services specifically identified in the estimate.

(3) Your mover must clearly describe binding estimate shipments and all services to be provided.

(4) If your mover believes you are tendering additional household goods or are requiring additional services not identified in the binding estimate, your mover may not honor the binding estimate. However, before loading your shipment, your mover must do one of the following four things:

(a) Reaffirm the binding estimate.

(b) Negotiate a revised written binding estimate listing the additional household goods or services.

(c) Make a new agreement with you.

(d) Add an addendum to the contract, in writing, stating both of you will consider the original binding estimate as a non-binding estimate. You should read more below. This may seriously affect how much you may pay for the entire move.

(5) Once your mover loads your shipment, your mover's failure to execute a new binding estimate or a non-binding estimate signifies it has reaffirmed the original binding estimate. Your mover may not collect more than the amount of the original binding estimate, except as provided in the next paragraph.

(6) If you add additional services at the destination and the services fail to appear on your mover's estimate, your mover may require full payment for these additional destination services at the time of delivery.

(7) Failure of your mover to relinquish possession of a shipment upon your offer to pay the binding estimate amount constitutes a failure to transport a shipment with "reasonable dispatch" and subjects your mover to cargo delay claims pursuant to 49 CFR Part 370.

Non-Binding Estimates

The mover is not permitted to charge you for giving a non-binding estimate.

A non-binding estimate is not a bid or contract. It is provided by the mover to give you a general idea of the cost of the move, but it does not bind your mover to the estimated cost. You should expect the final cost to be more than the estimate. The actual cost will be in accordance with the mover's tariffs. Your mover is legally obligated to collect the charges shown in its tariffs, regardless of what your mover writes in its non-binding estimates. The charges contained in its tariffs are essentially the same for the same weight shipment moving the same distance. If you obtain differing non-binding estimates from different movers, you will be obligated to pay only the amount specified in your mover's tariff. Therefore, a non-binding estimate may have no effect on the amount you will have to pay.

Non-binding estimates must be in writing and clearly describe the shipment and all services provided. Any time a mover provides such an estimate, the amount of the charges estimated must be on the order for service and bill of lading relating to your shipment. When you are given a non-binding estimate, do not sign or accept the order for service or bill of lading unless the amount estimated is entered on each form when prepared by the mover.

When you are given a non-binding estimate, the mover cannot require you to pay more than the amount of the estimate, plus 10 percent, at the time of delivery. You will then have at least 30 days after delivery to pay any remaining charges.

If You Request The Mover To Provide More Services Than Those Included in The Estimate, The Mover May Demand Full Payment for Those Added Services at The Time of Delivery.

Other requirements of non-binding estimates include the following six elements:

(1) Your mover must provide reasonably accurate non-binding estimates based upon the estimated weight of the shipment and services required.

(2) Your mover must explain to you all final charges on shipments moved upon non-binding estimates will be those appearing in your mover's tariffs applicable to the transportation. If your mover provides a non-binding estimate of approximate costs, your mover is not bound by such an estimate.

(3) Your mover must furnish non-binding estimates without charge and in writing to you.

(4) Your mover must retain a copy of each non-binding estimate as an addendum to the bill of lading.

(5) Your mover must clearly indicate on the face of a non-binding estimate, the estimate is not binding upon your mover and the charges shown are the approximate charges to be assessed for the services identified in the estimate.

(6) Your mover must clearly describe on the face of a non-binding estimates the entire shipment and all services to be provided.

If your mover furnishes a non-binding estimate, your mover must enter the estimated charges upon the order for service and upon the bill of lading.

Your mover must retain a record of all estimates of charges for at least one year from the date your mover made the estimate.

What payment arrangements must my mover have in place to secure delivery of my household goods shipment?

You may request delivery of your shipment at any time. If you pay your mover at least 110 percent of the approximate costs of a non-binding estimate on a collect-on-delivery shipment, your mover must relinquish possession of the shipment at the time of delivery. Your mover may specify its acceptable form of payment. Your mover's failure to relinquish possession of a shipment upon your offer to pay 110 percent of the estimated charges constitutes its failure to transport the shipment with "reasonable dispatch" and subjects your mover to your cargo delay claims under 49 CFR Part 370.

Your mover must defer demand for the payment of the balance of any remaining charges for a period of 30 days following the date of delivery. After this 30-day period your mover may demand payment of the balance of any remaining charges.

Subpart E—Pick Up of my Shipment of Household Goods

Must my mover write up an order for service?

We require your mover to prepare an order for service on every shipment transported for you. You are entitled to a copy of the order for service when your mover prepares it.

The order for service is not a contract. Should you cancel or delay your move or if you decide not to use the mover, you should promptly cancel the order.

If you or your mover change any agreed dates for pick up or delivery of your shipment, or agree to any change in the non-binding estimate, your mover may prepare a written change to the order for service. The written change must be attached to the order for service.

The order for service must contain the following ten elements:

(1) Your mover's name and address and the U.S. DOT number assigned to your mover.

(2) Your name, address and, if available, your telephone number(s).

(3) The name, address, and telephone number of the delivering carrier's office or agent located at or nearest to the destination of your shipment.

(4) A telephone number where you may contact your mover or its designated agent.

(5) *Dates and times.* One of the following three dates and times:

(a) The agreed pickup date and agreed delivery date of your move.

(b) The agreed period or periods of time of the entire move.

(c) If your mover is transporting the shipment on a guaranteed service basis, the guaranteed dates or periods of time for pickup, transportation, and delivery. Your mover must enter any penalty or per diem requirements upon the agreement under this item.

(6) A complete description of any special or accessorial services ordered and minimum weight or volume charges applicable to the shipment.

(7) Any identification or registration number your mover assigns to the shipment.

(8) For non-binding estimated charges, your mover's best estimate of the amount of the charges, the method of payment of total charges, and the maximum amount (110 percent of the non-binding estimate) your mover will demand at the time of delivery for you to obtain possession of the shipment.

(9) For binding estimated charges, the amount of charges your mover will demand based upon the binding estimate and the terms of payment under the estimate.

(10) An indication of whether you request notification of the charges before delivery. You must provide your mover with the telephone number(s) or address(es) where your mover will transmit such communications.

You and your mover must sign the order for service. Your mover must provide a dated copy of the order for service to you at the time your mover signs the order.

Before loading your shipment, and upon mutual agreement of both you and your mover, your mover may amend an order for service. Your mover must retain records of an order for service for at least one year from the date your mover wrote the order.

Should I or my mover write up an inventory of the shipment?

Yes. You or your mover should prepare an inventory of your shipment before loading. If your mover's driver fails to prepare an inventory, you should write a detailed inventory of your shipment listing any damage or unusual wear to any items. The purpose is to make a record of the condition of each item.

After completing the inventory, you should sign each page and ask the mover's driver to sign each page. Before you sign it, it is important you make sure the inventory lists every item in the shipment and the entries

regarding the condition of each item are correct. You have the right to note any disagreement. When your mover delivers the shipment, if an item is missing or damaged, your ability to dispute the items lost or damaged may depend upon your notations.

You should retain a copy of the inventory. Your mover may keep the original if the driver prepared it. If your mover's driver completed an inventory, the mover will generally attach the complete inventory to the bill of lading as an addendum to the bill of lading.

Must my mover write up a bill of lading?

The bill of lading is the *contract* between you and the mover. The mover is required by law to prepare a bill of lading for every shipment it transports. *The information on a bill of lading is required to be the same information shown on the order for service.* The driver who loads your shipment must give you a copy of the bill of lading before loading your furniture and other household goods.

IT IS YOUR RESPONSIBILITY TO READ THE BILL OF LADING BEFORE YOU ACCEPT IT. It is your responsibility to understand the bill of lading before you sign it. If you do not agree with something on the bill of lading, do not sign it until you are satisfied it is correct.

The bill of lading requires the mover to provide the service you have requested. You must pay the charges set forth in the bill of lading.

THE BILL OF LADING IS AN IMPORTANT DOCUMENT. DO NOT LOSE OR MISPLACE YOUR COPY. Have it available until your shipment is delivered, all charges are paid, and all claims, if any, are settled.

A bill of lading must include the following twelve elements:

(1) Your mover's name and address, or the name and address of the motor carrier issuing the bill of lading.

(2) The names and addresses of any other motor carriers, when known, who will participate in the transportation of the shipment.

(3) The name, address, and telephone number of the office of the motor carrier you must contact in relation to the transportation of the shipment.

(4) When your mover transports your shipment under a collect-on-delivery basis, your name, address, and telephone number where the mover will notify you about the charges.

(5) *For non-guaranteed service*, the agreed date or period of time for pickup of the shipment and the agreed date or period of time for the delivery of the shipment. The agreed dates or periods of time for pickup and delivery entered upon the bill of lading must conform to the agreed dates or periods of time for pickup and delivery entered upon the order for service or a proper amendment to the order for service.

(6) For *guaranteed service*, the dates for pickup and delivery and any penalty or per diem entitlements due you under the agreement.

(7) The actual date of pickup.

(8) The company identification number(s) of the vehicle in which your mover loads your shipment.

(9) The terms and conditions for payment of the total charges including notice of any minimum charges.

(10) The maximum amount your mover will demand from you at the time of delivery for you to obtain possession of your shipment, when your mover transports under a collect-on-delivery basis.

(11) The Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage.

(12) Evidence of any insurance coverage sold to or procured for you from an independent insurer, including the amount of the premium for such insurance.

A copy of the bill of lading must accompany your shipment at all times while in the possession of your mover or its agent(s). When your mover loads the shipment upon a vehicle for transportation, the bill of lading must be in the possession of the driver responsible for the shipment. Your mover must retain bills of lading for at least one year from the date your mover created the bill of lading.

Should I reach an agreement with my mover about pickup and delivery times?

You and your mover should reach an agreement for pickup and delivery times. It is your responsibility to determine on what date, or between what dates, you need to have the shipment picked up and on what date, or between what dates, you require delivery. It is your mover's responsibility to tell you if it can provide service on or between those dates, or, if not, on what other dates it can provide the service.

In the process of reaching an agreement with your mover, you may find it necessary to alter your moving and travel plans if no mover can provide service on the specific dates you desire.

Do not agree to have your shipment picked up or delivered "as soon as possible." The dates or periods of time you and your mover agree upon should be definite.

Once an agreement is reached, your mover must enter those dates upon the order for service and upon the bill of lading.

Once your goods are loaded, your mover is contractually bound to provide the service described in the bill of lading. Your mover's only defense for not providing the service on the dates called for is the "Defense of Force Majeure." This is a legal term. It means when circumstances change, were not foreseen, and are beyond the control of your mover, preventing your mover from performing the service agreed to in the bill of lading, your mover is not responsible for damages resulting from its non-performance.

Must my mover determine the weight of my shipment?

Generally yes. If your mover transports your household goods on a non-binding estimate under the mover's tariffs based upon weight, your mover must determine the weight of the shipment. If your mover provided a binding estimate and has loaded your shipment without claiming you have added additional items or services, the weight of the shipment will not affect the charges you will pay. If your mover is transporting your shipment based upon the volume of the shipment (i.e., a set number of cubic meters or yards), the weight of the shipment will also not affect the charges you will pay.

Your mover must determine the weight of your shipment before requesting you pay for any charges dependent upon your shipment's weight.

Most movers usually have a minimum weight or volume charge for transporting a shipment. Usually the minimum is the charge for transporting a shipment of at least 454 kilograms (1,000 pounds).

If your shipment appears to weigh less than the mover's minimum weight, your mover must advise you on the order for service of the minimum cost before agreeing to transport the shipment. Should your mover fail to advise you of the minimum charges and your shipment is less than the minimum weight, your mover must base your final charges upon the actual weight instead of the minimum weight.

How must my mover determine the weight of my shipment?

Your mover must weigh your shipment upon a certified scale.

The weight of your shipment must be obtained by using one of two methods.

Origin Weighing—Your mover may weigh your shipment in the city or area where it loads your shipment. If it elects this option, the driver must weigh the truck before coming to your residence. This is called the *TARE WEIGHT.* At the time of this first weighing, the truck may already be partially loaded with one or more other shipments. This will not affect the weight of your shipment. The truck should also contain the pads, dollies, hand-trucks, ramps, and other equipment normally used in the transportation of household goods shipments.

After loading, the driver will weigh the truck again to obtain the loaded weight, called the *GROSS WEIGHT.* The net weight of your shipment is then obtained by subtracting the tare weight before loading from the *gross weight.*

GROSS WEIGHT − TARE WEIGHT BEFORE LOADING = NET WEIGHT

DESTINATION WEIGHING—The mover is also permitted to determine the weight of your shipment at the destination after it delivers your load. The fact your mover weighs your shipment at the destination instead of the origin will not affect the accuracy of the weight of your shipment. *THE MOST IMPORTANT DIFFERENCE IS YOUR MOVER WILL NOT DETERMINE THE EXACT CHARGES ON YOUR SHIPMENT BEFORE IT IS UNLOADED.*

Destination weighing is done in reverse of origin weighing. After arriving in the city or area where you are moving, the driver will weigh the truck. Your shipment will still be on the truck. Your mover will determine the *GROSS WEIGHT* before coming to your new residence to unload. After unloading your shipment, the driver will again weigh the truck to obtain the *TARE WEIGHT.* The net weight of your shipment will then be obtained by subtracting the *tare weight* after delivery from the *gross weight.*

GROSS WEIGHT − TARE WEIGHT AFTER DELIVERY = NET WEIGHT

At the time of both weighings, your mover's truck must have installed or loaded all pads, dollies, hand trucks, ramps, and other equipment required in the transportation of your shipment. The driver and other persons must be off the vehicle at the time of both weighings. The fuel tanks on the vehicle must be full at the time of each weighing. In lieu of this requirement, your mover must refrain from adding fuel between the two weighings when the tare weighing is the first weighing performed.

Your mover may detach the trailer of a tractor-trailer vehicle combination from the tractor and the trailer weighed separately at each weighing provided the length of the scale platform is adequate to accommodate and support the entire trailer at one time.

Your mover may use an alternative method to weigh your shipment if it weighs 454 kilograms or less (1,000 pounds or less). The only alternative method allowed is weighing the shipment upon a platform or warehouse certified scale before loading your shipment for transportation or after unloading.

Your mover must use the net weight of shipments transported in large containers, such as ocean or railroad containers. Your mover will calculate the difference between the tare weight of the container (including all pads, blocking and bracing used in the transportation of your shipment) and the gross weight of the container with your shipment loaded in the container.

You have the right, and your mover must inform you of your right, to observe all weighings of your shipment. Your mover must advise you where and when each weighing will occur. Your mover must give you a reasonable opportunity to be present to observe the weighings.

You may waive your right to observe any weighing or reweighing. This does not affect any of your other rights you have under Federal law.

Your mover may request you waive your right to have a shipment weighed upon a certified scale. Your mover may want to weigh the shipment upon a trailer's on-board non-certified scale. You should demand your right to have a certified scale used. The use of a non-certified scale may cause you to pay a higher final bill for your move, if the non-certified scale does not accurately weigh your shipment. Remember, certified scales are inspected and approved for accuracy by a government inspection or licensing agency. Non-certified scales are not.

Your mover must obtain a separate weight ticket for each weighing. The weigh master must sign each weight ticket. Each weight ticket must contain the following six items:

(1) The complete name and location of the scale.

(2) The date of each weighing.

(3) Identification of the weight entries as being the tare, gross, or net weights.

(4) The company or carrier identification of the vehicle.

(5) Your last name as it appears on the Bill of Lading.

(6) Your mover's shipment registration or Bill of Lading number.

Your mover must retain the original weight ticket or tickets relating to the determination of the weight of your shipment as part of its file on your shipment.

When both weighings are performed on the same scale, one weight ticket may be used to record both weighings.

Your mover must present all freight bills with true copies of all weight tickets. If your mover does not present its freight bill with all weight tickets, your mover is in violation of Federal law.

Before the driver actually begins unloading your shipment weighed at origin and after your mover informs you of the billing weight and total charges, you have the right to demand a reweigh of your shipment. If you believe the weight is not accurate, you have the right to request your mover reweigh your shipment before unloading.

Your mover is prohibited from charging you for the reweighing. If the weight of your shipment at the time of the reweigh is different from the weight determined at origin, the mover must recompute the charges based upon the reweigh weight.

Before requesting a reweigh, you may find it to your advantage to estimate the weight of your shipment using the following three-step method:

1. Count the number of items in your shipment. Usually there will be either 30 or 40 items listed on each page of the inventory. For example, if there are 30 items per page and your inventory consists of four complete pages and a fifth page with 15 items listed, the total number of items will be 135. *If an automobile is listed on the inventory do not include this item in the count of the total items.*

2. Subtract the weight of any automobile included in your shipment from the total weight of the shipment. If the automobile was not weighed separately, its weight can be found on its title or license receipt.

3. Divide the number of items in your shipment into the weight. If the average weight resulting from this exercise ranges between 16 and 20 kilograms (35 and 45 pounds) per article, it is unlikely a reweigh will prove beneficial to you and could result in you paying higher charges.

Experience has shown the average shipment of household goods will weigh about 18 kilograms (40 pounds) per item. If a shipment contains a large number of heavy items, such as cartons of books, boxes of tools or heavier than average furniture, the average weight per item may be 20 kilograms or more (45 pounds or more).

Subpart F—Transportation of My Shipment

Must my mover transport the shipment in a timely manner?

Yes, your mover must transport your household goods in a timely manner. This is also known as "reasonable dispatch service." Your mover must provide reasonable dispatch service to you, except for transportation on the basis of guaranteed pickup and delivery dates.

When your mover is unable to perform either the pickup or delivery of your shipment on the dates or during the periods of time specified in the order for service, your mover must notify you of the delay by telephone, telegram or in person, at your mover's expense. As soon as the delay becomes apparent to your mover, it must give you notification it will be unable to provide the service specified in the terms of the order for service.

At the time of your mover's notification of delay, it must advise you of the dates or periods of time it may be able to pickup and/or deliver the shipment. Your mover must consider your needs in its advisement. If its notification of delay occurs before the pickup of the shipment, your mover must amend the order for service. If your mover's notification of delay occurs after it picked up your shipment, your mover or its agent must notify you of the delay.

Your mover must prepare a written record of the date, time, and manner of its notification. Your mover must prepare a written record of its amended date or period of time for delivery. Your mover must retain these records as a part of its file on your shipment. The retention period is one year from the date of notification. Your mover must furnish a true copy of the notification to you by first class mail or in person.

Your mover must tender your shipment for delivery upon the agreed delivery date or within the period of time specified on the bill of lading. Upon your request or concurrence, your mover may deliver your shipment on another day.

The establishment of a delayed pickup or delivery date does not relieve your mover from liability for damages resulting from your mover's failure to provide service as agreed. However, when your mover notifies you of alternate delivery dates, it is your responsibility to be available to accept delivery on the dates specified. If you are not available and are not willing to accept delivery, your mover has the right to place your shipment in storage at your expense or hold the shipment on its truck and assess additional charges.

If after the pickup of your shipment, *you* request your mover to change the delivery date, most movers will agree to do so providing your request will not result in unreasonable delay to its equipment or interfere with another customer's move. However, your mover is under no obligation to consent to amended delivery dates. Your mover has the right to place your shipment in storage at your expense if you are unwilling or unable to accept delivery on the date agreed to in the bill of lading.

If your mover fails to pick up and deliver your shipment on the date entered on the bill of lading and you have expenses you otherwise would not have had, you may be able to recover those expenses from your mover. This is what is called an inconvenience or delay claim. Should your mover refuse to honor such a claim and you continue to believe you are entitled to be paid damages, you may sue the mover. *The FHWA has no authority to order the mover to pay such claims.*

While we hope your mover delivers your shipment in a timely manner, you should consider the possibility your shipment may be delayed and find out what payment you can expect if your mover delays service through its own fault before you agree with your mover to transport your shipment.

What must my mover do if it is able to deliver my shipment more than 24 hours before I am able to accept delivery?

At your mover's discretion, it may place your shipment in storage. This will be under its own account and at its own expense in a warehouse located in proximity to the destination of your shipment. Your mover may do this if you fail to request or concur with an early delivery date, and your mover is able to deliver your shipment more than 24 hours before your specified date or the first day of your specified period of time.

If your mover exercises this option, your mover must immediately notify you of the name and address of the warehouse where your mover places your shipment. Your mover must make and keep a record of its notification as a part of its shipment records. Your mover has full responsibility for the shipment under the terms and conditions of the bill of lading. Your mover is responsible for the charges for redelivery, handling, and storage until it makes final delivery. Your mover may limit its responsibility to the agreed delivery date or the first day of the period of time of delivery as specified in the bill of lading.

What must my mover do for me when I store household goods in transit?

If you request your mover hold your household goods in storage-in-transit (SIT) and the storage period of time is about to expire, your mover must notify you, in writing, about the four following items:

(1) The date when storage-in-transit will convert to permanent storage.

(2) The existence of a nine-month period after the date of conversion to permanent storage when you may file claims against your mover for loss or damage occurring to your goods while in transit or during the storage-in-transit period.

(3) Your mover's liability will end.

(4) Your property will be subject to the rules, regulations, and charges of the warehouseman.

Your mover must make this notification at least 10 days before the expiration date of one of the following two periods of time:

(1) The specified period of time when your mover is to hold your goods in storage.

(2) The maximum period of time provided in its tariff for storage-in-transit.

Your mover must notify you by mail.

If your mover holds your household goods in storage-in-transit for a period of time less than 10 days, within one day before the expiration date of the specified time when your goods are to be held in such storage, your mover must notify you of the same information specified above.

Your mover must maintain a record of all notifications to you as part of the records of your shipment. Your mover's failure or refusal to notify you will automatically effect a continuance of your mover's liability according to the applicable tariff provisions with respect to storage-in-transit, until the end of the day following the date when your mover actually gives you notice.

What must my mover do if I want to know the actual weight or charges for my shipment before delivery?

If you request notification of the actual weight or volume and charges upon your shipment, your mover must comply with your request when it is moving your goods on a collect-on-delivery basis. This requirement is conditioned upon you supplying your mover with an address or telephone number where you will receive the communication. Your mover must make its notification by telephone, telegram, or in person.

You must receive its notification at least one full 24-hour day before your mover's delivery, excluding Saturdays, Sundays and Federal holidays.

Your mover may disregard this 24-hour notification requirement on shipments subject to one of the following three things:

(1) Back weigh (when your mover weighs your shipment at its destination).

(2) Pickup and delivery encompassing two consecutive week days, if you agree.

(3) Maximum payment amounts at time of delivery of 110 percent of the estimated charges, if you agree.

Subpart G—Delivery of My Shipment

May my mover ask me to sign a delivery receipt purporting to release it from liability?

At the time of delivery, your mover will expect you to sign a receipt for your shipment. You generally will sign each page of your mover's copy of the inventory.

Your mover must exclude on its delivery receipt or shipping document any language purporting to release or discharge your mover or its agents from liability.

Your mover may include a statement about your receipt of your property in apparent good condition, except as noted on the shipping documents.

DO NOT SIGN the delivery receipt, if any language purporting to release or discharge your mover or its agents from liability appears on the delivery receipt. Strike out such language before signing or refuse delivery if the driver or mover refuses to provide a proper delivery receipt.

What is the maximum collect-on-delivery amount my mover may demand I pay at the time of delivery?

On a binding estimate, the maximum amount is the exact estimate of the charges. Your mover may specify the form of payment acceptable to it (e.g., a certified check).

On a non-binding estimate, the maximum amount is 110 percent of the approximate costs. Your mover may specify the form of payment acceptable to it (e.g., cash).

If my shipment is transported on more than one vehicle, what charges may my mover collect at delivery?

Although all movers try to move each shipment on one truck, it becomes necessary at times to divide a shipment among two or more trucks. This frequently occurs when an automobile is included in the shipment and it is transported on a vehicle specially designed to transport automobiles. When this occurs your transportation charges are the same as if the entire shipment moved on one truck.

If your shipment is divided for transportation on two or more trucks, the mover may require payment for each portion as it is delivered.

Your mover may delay the collection of all the charges until the entire shipment is delivered, at its discretion, not yours. At the time you make the arrangements for your move, you should ask the mover about its policies in this respect.

If my shipment is partially lost or destroyed, what charges may my mover collect at delivery?

Movers customarily make every effort to not lose, damage, or destroy your items while your shipment is in their possession for transportation. However, despite the precautions taken, articles are sometimes lost or destroyed during the move.

In addition to any money you may recover from your mover to compensate for lost or destroyed articles, you may also recover the transportation charges represented by the portion of the shipment lost or destroyed.

Your mover must require you to pay any specific valuation charge due. Your mover may only apply this paragraph to the transportation of household goods. Your mover may disregard this paragraph if loss or destruction was due to an act or omission by you.

For example, if you pack a hazardous material (i.e., gasoline, aerosol cans, motor oil, etc.) and your shipment is partially lost or destroyed by fire in storage or in the mover's trailer, your mover may require you to pay for the full cost of transportation.

Your mover may first collect its freight charges for the entire shipment, if your mover chooses. At the time your mover disposes of claims for loss, damage, or injury to the articles in your shipment, it must refund the portion of its freight charges corresponding to the portion of the lost or destroyed shipment (including any charges for accessorial or terminal services).

Your mover is forbidden from collecting, or requiring you to pay, any freight charges (including any charges for accessorial or terminal services) when your household goods shipment is *totally lost or destroyed* in transit, unless the loss or destruction was due to an act or omission by you.

How must my mover calculate the charges applicable to the shipment as delivered?

Your mover must multiply the percentage corresponding to the delivered shipment times the total charges applicable to the shipment tendered by you to obtain the total charges it must collect from you.

If your mover's computed charges exceed the charges otherwise applicable to the shipment as delivered, the lesser of those charges must apply. This will apply only to the transportation of your household goods.

Your mover must require you to pay any specific valuation charge due.

Your mover may disregard this paragraph if loss or destruction was due to an act or omission by you. For example, you fail to disclose to your mover your shipment contains perishable live plants. Your mover

may disregard its loss or destruction of your plants, because you failed to inform your mover you were transporting live plants.

Your mover must determine, at its own expense, the proportion of the shipment not lost or destroyed in transit.

Your rights are in addition to, and not in lieu of, any other rights you may have with respect to your shipment of household goods your mover lost or destroyed, or partially lost or destroyed, in transit. This applies whether or not you have exercised your rights provided above.

Subpart H—Collection of Charges

Does this subpart opply to most shipments?

No, this subpart does not apply to most shipments. Most movers perform C.O.D. service subject to the 110 percent rule for non-binding estimates. Read and understand this subpart only if your mover is not providing this type of C.O.D. service subject to the 110 percent rule for non-binding estimates.

How must my mover present its freight or expense bill to me?

At the time for payment of transportation charges, the mover is required to give you a freight bill identifying the service provided and the charge for each service. It is customary for most movers to use a copy of the bill of lading as a freight bill; however, some movers use an entirely separate document for this purpose.

Except in those instances where a shipment is moving on a binding estimate, the freight bill must specifically identify each service performed, the rate per unit for each service, and the total charges for each service. *If this information is not on the freight bill, DO NOT occept or pay the freight bill.*

Movers customarily provide in tariffs the freight charges must be paid in cash, by certified check, or by a cashier's check. When this requirement exists, the mover will not accept personal checks. At the time you make arrangements for your move, you should ask your mover about the form of payment your mover requires.

Some movers permit payment of freight charges by use of a charge card. However, do not assume your nationally recognized charge, credit, or debit card will be acceptable for payment. Ask your mover at the time you request an estimate.

If you do not pay the transportation charges at the time of delivery, your mover has the right, under the bill of lading, to refuse to deliver your goods. The mover may place them in storage, at your expense, until the charges are paid. However, the mover must deliver your goods upon payment of 110 percent of a non-binding estimate.

If, before payment of the transportation charges, you discover an error in the charges, you should attempt to correct the error with the driver, the mover's local agent, or by contacting the mover's main office. If an error is discovered after payment, you should write the mover (the address will be on the freight bill) explaining the error and request a refund.

Movers customarily check all shipment files and freight bills after a move has been completed to make sure the charges were accurate. If an overcharge is found, you will be notified and a refund made. If an undercharge occurred, you will be billed for the additional charges due.

On "to be prepaid" shipments, your mover must present its freight bill for all transportation charges within 15 days, from the date your mover received the shipment. This time period excludes Saturdays, Sundays, and Federal holidays.

On "collect" shipments, your mover must present its freight bill for all transportation charges on the date of delivery, or, at its discretion, within 15 days, measured from the date the shipment was delivered at your destination. This time period excludes Saturdays, Sundays, and Federal holidays.

Your mover's freight bills and accompanying written notices must state the following five items:

(1) Penalties for late payment.
(2) Credit time limits.
(3) Service or finance charges.
(4) Collection expense charges.
(5) Discount terms.

If your mover extends credit to you, freight bills or a separate written notice accompanying a freight bill or a group of freight bills presented at one time must state "You may be subject to tariff penalties for failure to timely pay freight charges" or a similar statement. Your mover must state on its freight bills or other notices when it expects payment, and any applicable service charges, collection expense charges and discount terms.

When your mover lacks sufficient information to compute its tariff charges at its time of billing, your mover must present its freight bill for payment within seven days following the day when sufficient information becomes available. This time period excludes Saturdays, Sundays, and Federal holidays.

Your mover must refrain from extending more credit to you, if you fail to furnish sufficient information to your mover. Your mover must have sufficient information to render a freight bill within a reasonable time after the shipment.

When your mover presents freight bills by mail, it must deem the time of mailing to be the time of presentation of the bills. The term "freight bills," as used in this paragraph, includes both paper documents and billing by use of electronic media such as computer tapes, disks, or the Internet when the mails (U.S. mail, e-mail) are used to transmit them.

When you mail acceptable checks or drafts in payment of freight charges, your mover must deem the act of mailing the payment within the credit period to be the proper collection of the tariff charges within the credit period for the purposes of Federal law. In the case of a dispute as to the date of mailing, your mover must accept the postmark as the date of mailing.

If I forced my mover to relinquish o collect-on-delivery shipment before the payment of ALL chorges, how must my mover collect the bolonce?

On "collect-on-delivery" shipments, your mover must present its freight bill for all transportation charges within seven days, measured from the date the shipment was delivered at your destination. This time period excludes Saturdays, Sundays, and Federal holidays.

What actions may my mover toke to collect from me the chorges upon its freight bill?

Your mover must present a freight bill within 15 days (excluding Saturdays, Sundays, and Federal holidays) of the date of delivery of a shipment at your destination.

The credit period must be seven days (excluding Saturdays, Sundays, and Federal holidays).

Your mover must provide in its tariffs the following three things:

(1) A provision automatically extending the credit period to a total of 30 calendar days for you if you have not paid its freight bill within the 7-day period.

(2) A provision indicating you will be assessed a service charge by your mover equal to one percent of the amount of the freight bill, subject to a $20 minimum charge, for the extension of the credit period.

(3) A provision your mover must deny credit to you, if you fail to pay a duly presented freight bill within the 30-day period. Your mover may grant credit to you, at its discretion, when you satisfy your mover's conditions you will pay all future freight bills duly presented. Your mover must ensure all your payments of freight bills are strictly in accordance with Federal rules and regulations for the settlement of its rates and charges.

Do I hove a right to file o claim to recover money for property my mover lost or domaged?

Should your move result in the loss or damage to any of your property, you have the right to file a claim with your mover to recover money for such loss or damage.

You have nine months following either the date of delivery, or the date when the shipment should have been delivered, to file a claim. You should file a claim as soon as possible. If you fail to file a claim within 120 days following delivery and later bring a legal action against the mover to recover the damages, you may not be able to recover your attorney fees even though you win the court action.

While the Federal Government maintains regulations governing the processing of loss and damage claims, it cannot resolve those claims. If you cannot settle a claim with the mover, you may file a civil action to recover your claim in court. In this connection, you may obtain the name and address of the mover's agent for service of legal process in your state by contacting the Federal Highway Administration.

In addition, your mover must participate in an Arbitration Program. The program, described earlier in this pamphlet, provides you with the opportunity to settle certain types of unresolved loss or damage claims through a neutral arbitrator. You may find submitting your claim to arbitration under such a program to be a less expensive and more convenient way to seek recovery of your claim. If the mover does not provide you with information about its arbitration program before you move, ask the mover for the details of the program.

Subpart I—Reports My Mover Files With the FHWA

What is an annual arbitration report?

A report describing the results of all arbitrations requested and concluded in the previous calendar year.

Who must file an annual arbitration report?

If your mover picks up or delivers shipments for individual shippers (like you) during any calendar year, your mover must file an annual arbitration report.

Where and when does my mover file an annual arbitration report?

Your mover must file an annual arbitration report with the Federal Highway Administration in Washington, D.C. by March 31 each year.

What is included in my mover's annual arbitration report?

Your mover must include in its annual arbitration report the following nine things:

(1) The total number of shipments transported for the calendar year covered by the report.

(2) The total number of claims in excess of $1000.

(3) The total number of claims of $1000 or less.

(4) The number of requests for arbitration on claims of $1000 or less.

(5) The results of those arbitrations (listing claim amount and disposition).

(6) The number of requests for arbitration on claims in excess of $1000.

(7) The number of requests for arbitration on claims in excess of $1000 your mover accepted.

(8) The results of the arbitrations your mover accepted and reported listing claim amount and disposition.

(9) An oath, completed by your mover. The oath must be signed by a company officer of your mover.

How may I get a copy of my mover's annual arbitration report?

Ask your mover for a copy of its report or write to the following address: Licensing and Insurance Division (HIA–30), Office of Motor Carrier Information Analysis, Federal Highway Administration, 400 Virginia Avenue, SW., Suite 600, Washington, D.C. 20024.

Subpart J—Resolving Disputes With My Mover

What may I do to resolve disputes with my mover?

The Federal Highway Administration does not help you settle your dispute with your mover.

Generally, you must resolve your own disputes with your mover. You enter a contractual arrangement with your mover. You are bound by each of the following three things:

(1) The terms and conditions you negotiated before your move.

(2) The terms and conditions you accepted when you signed the bill of lading.

(3) The terms and conditions you accepted when you signed for delivery of your goods.

Your mover is required to offer you arbitration to settle your disputes with it. Otherwise, you have the right to take your mover to court.

The Federal Highway Administration does not have the resources to seek a court injunction on your behalf to obtain your household goods if your mover is holding your goods "hostage."

Subpart K—What Else Should I Know

What if I have more questions?

If this pamphlet does not answer all of your questions about your move, do not hesitate to ask your mover's representative who handled the arrangements for your move, the driver who transports your shipment, or the mover's main office for additional information.

What are the most important points I should remember from this pamphlet?

1. Movers must give written estimates.
2. Movers may give binding estimates.
3. Non-binding estimates are not always accurate; actual charges often exceed the estimate.
4. You should specify pickup and delivery dates in the *order for service.*
5. The *bill of lading* is your contract with the mover * * *. READ IT CAREFULLY * * *. If you have any questions ask your mover.
6. Be sure you understand the extent of your mover's liability for loss and damage.
7. You have the right to be present each time your shipment is weighed.
8. You may request a reweigh of your shipment.
9. If you have moved on a non-binding estimate, you should have enough cash, a certified check, or a cashier's check to pay the estimated cost of your move plus 10 percent more, at the time of delivery.
10. Unresolved claims for loss or damage may be submitted to arbitration; ask your mover for details.

PART 377—[AMENDED]

2. The authority citation for part 377 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13701–13702, 13706, 13707, and 14101; 49 CFR 1.48.

§ 377.215 [Amended]

3. Section 377.215 is removed and reserved.

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federal register

Friday
May 15, 1998

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Establishment of Cincinnati/ Northern Kentucky International Airport Class B Airspace Area, and Revocation of Cincinnati/Northern Kentucky International Class C Airspace Area, KY; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–AWA–5]

RIN 2120–AE97

Proposed Establishment of Cincinnati/Northern Kentucky International Airport Class B Airspace Area, and Revocation of Cincinnati/Northern Kentucky International Class C Airspace Area; KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: On February 10, 1998, the FAA published an NPRM, which proposed to establish a Class B airspace area and to revoke the existing Class C airspace area at the Cincinnati/Northern Kentucky International Airport. This document announces the reopening of the comment period for an additional 60 days.

DATES: Comments must be received on or before July 14, 1998.

ADDRESSES: Comments on this NPRM should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 93–AWA–5, 800 Independence Avenue, SW., Washington, DC 20591. Comments may be also sent electronically to the following Internet address: 9–NPRM–CMTS@faa.dot.gov. Comments delivered must be marked Docket No. 93–AWA–5. The official docket may be examined in the Office of the Chief Counsel, Room 915G, weekdays, between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Crawford, 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

Airspace Docket No. 93–AWA–5, published on February 10, 1998 (63 FR 6818), proposed to establish a Class B airspace area and to revoke the existing Class C airspace area at the Cincinnati/Northern Kentucky International Airport (CVG). CVG qualified as a candidate for Class B airspace based on the enplaned passengers and airport operations. The 60-day comment period for the notice closed on April 13, 1998.

By letters, on April 8 and 13 respectively, the Aircraft Owners and Pilots Association (AOPA) and Mercantile Stores Co. Inc. requested that the FAA extend the comment period from 60 days, to as long as 90 days, to enable those persons impacted by the proposal to submit meaningful comments. Additionally, AOPA requested that the FAA take action to conduct a second series of informal airspace meetings to present this proposal to the public.

The FAA agrees, in part, with these recommendations. The plan to establish a Class B airspace area for CVG and revoke the existing Class C airspace area, was introduced for public input at informal airspace meetings conducted in Ohio and Kentucky on September 3 and 4, 1992. These meetings were held to allow the public an opportunity to preview and comment on the planned airspace design for CVG. Comments on the planned design were received from a variety of airspace users including the Ad Hoc User Group Advisory Committee for the area. All the comments received during these informal airspace meetings were given due consideration prior to issuing the NPRM. The proposed Class B airspace area configuration discussed in the NPRM is the same as presented during the 1992 informal airspace meetings. Therefore, the FAA finds that it is not necessary to hold further informal airspace meetings.

It is FAA policy to encourage full public participation in all regulatory actions. The FAA is aware that many general aviation pilots and others associated with the aviation industry receive notification of proposed rulemaking actions only through user organizations. Also, the FAA recognizes that a number of years have elapsed since the informal airspace meetings were held. Based on the above, the FAA has determined that reopening the comment period is reasonable and would ensure that all interested parties have an opportunity to respond to the NPRM. Accordingly, the FAA is reopening the comment period for this rulemaking effort for an additional 60 days. This additional period allows for a total comment period of 120 days instead of the original 60-day comment period.

Issued in Washington, DC on May 11, 1998.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98–12981 Filed 5–14–98; 8:45 am]

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federal register

Friday
May 15, 1998

Part IV

Department of Agriculture

Food and Nutrition Service

7 CFR Parts 210 and 220

National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives; Proposed Rule; Republication

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

RIN 0584–AC38

National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives

Editorial Note: FR Doc. 98–11654 was originally published at 63 FR 24686–24709 in the issue of Monday, May 4, 1998. Due to numerous errors, the document is being republished in its entirety. The comment dates have changed. Also, disregard the correction document published at 63 FR 25569 May 8, 1998.

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The National School Lunch Act requires that schools that are participating in the National School Lunch or School Breakfast Programs claim reimbursements only for lunches or breakfasts which meet the nutrition standards of the National School Lunch Act, including compliance with the Dietary Guidelines for Americans. The Healthy Meals for Children Act expanded the number of menu planning alternatives available to school food authorities participating in the National School Lunch and School Breakfast Programs. In accordance with that legislation, this proposed rulemaking would reinstate the menu planning system in effect for School Year 1994–95 (the traditional meal pattern) as one of the menu planning alternatives available to local school food authorities. In addition, this proposal would permit school food authorities to use "any reasonable approach" to plan menus to meet the nutrition standards. The Department is also proposing to clarify and simplify several State agency monitoring responsibilities associated with the implementation of the nutrition standards of the National School Lunch Act.

DATES: To be assured of consideration, comments must be postmarked or e-mail comments dated on or before November 12, 1998.

ADDRESSES: Comments must sent to: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302 or via the Internet at CNDProposal@FCS.USDA.GOV. All written submissions will be available for public inspection in Room 1007, 3101 Park Center Drive, Alexandria, Virginia during regular business hours (8:30 a.m. to 5:30 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie at the above address or by telephone at 703–305–2620.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be significant and is subject to review by the Office of Management and Budget under Executive Order 12866.

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the Food and Nutrition Service generally prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Food and Nutrition Service to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule contains no Federal mandates (under regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA. However, a Regulatory Cost/Benefit Assessment is provided in the Appendix to this preamble.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Under Secretary for Food, Nutrition and Consumer Services has certified that this rule will not have a significant economic impact on a substantial number of small entities. The Department of Agriculture (the Department or USDA) does not anticipate any adverse fiscal impact on local schools as the proposal would expand the number of options available to plan menus for school meals.

Executive Order 12372

The National School Lunch Program and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555 and 10.553, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V and final rule-related notice at 48 FR 29112, June 24, 1983.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This proposed rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of this preamble. Prior to any judicial challenge to the provisions of this proposed rule or the application of the provisions, all applicable administrative procedures must be exhausted. In the National School Lunch Program and School Breakfast Program, the administrative procedures are set forth under the following regulations: (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q); (2) school food authority appeals of Food and Nutrition Service (FNS) findings as a result of an administrative review must follow FNS hearing procedures as established pursuant to 7 CFR 210.30(d)(3); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow the FNS Administrative Review Process as established pursuant to 7 CFR 235.11(f).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, this notice invites the general public and other public agencies to comment on the information collection.

Written comments must be received on or before July 14, 1998.

Comments concerning the information collection aspects of this proposed rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Room 3208, New Executive Office Building, Washington, DC. 20503, Attention : Laura Oliven, Desk Officer for FNS. A copy of these

comments may also be sent to Mr. Eadie at the address listed in the **ADDRESSES** section of this preamble. Commenters are asked to separate their information collection requirements comments from their comments on the remainder of this proposed rule.

OMB is required to make a decision concerning the collection of information contained in this proposed regulation between 30 and 60 days after the publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulation.

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 the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology.

The title, description, and respondent description of the information collections are shown below with an estimate of the annual recordkeeping burdens. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: 7 CFR Part 210, National School Lunch Program.

OMB Number: 0584–0006.

Expiration Date: October 31, 1999.

Type of Request: Revision of currently approved collection.

Abstract: The National School Lunch Act requires that schools that are participating in the school lunch program claim reimbursements only for lunches under the program which meet the nutrition standards of the Act, including compliance with the Dietary Guidelines for Americans. The Healthy Meals for Children Act expanded the number of menu planning alternatives available to school food authorities participating in the NSLP. In accordance with that legislation, this proposed rulemaking would reinstate the menu planning system in effect for school year 1994–95 (the traditional meal pattern) as one of the menu planning alternatives available to local schoo! food authorities. In addition, this proposal would permit school food authorities to use "any reasonable approach" to meet the requirements.

In accordance with the Paperwork Reduction Act of 1995, the Department is providing the public with the opportunity to provide comments on the information collection requirements of the proposed rule as noted below:

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Estimated Annual Recordkeeping Burden:

	Section	Annual Number of Respondents	Annual Frequency	Average Burden per Response	Annual Burden Hours
State agency establishes guidelines and approves school food authorities menu planning alternatives:					
Total Existing	7 CFR 210.10(l)	0	0	0	0
Total Proposed	7 CFR 210.10(l)	58	1	1	58
State agency modifies menu planning alternatives or develops menu planning alternatives:					
Total Existing	7 CFR 210.10(l)	0	0	0	0
Total Proposed	7 CFR 210.10(l)	5	1	20	100
School food authorities adopt menu planning alternatives:					
Total Existing	7 CFR 210.10(l)	0	0	0	0
Total Proposed	7 CFR 210.10(l)	2,500	1	10.5	26,250
School food authorities modify menu planning alternatives or develop menu planning alternatives and submit them to the State agency for approval:					
Total Existing	7 CFR 210.10 (l)	0	0	0	0
Total Proposed	7 CFR 210.10(l)	100	1	20	2,000
Total Recordkeeping Burden:					
Total Existing	0				
Total Proposed	+28,408				
Change	+ 28,408				

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Background

On June 13, 1995, USDA published a final rule (60 FR 31188) updating the nutrition standards for the National School Lunch Program (NSLP) and School Breakfast Program (SBP). That rulemaking was the foundation of the Department's School Meals Initiative for Healthy Children, an integrated, comprehensive plan for promoting the health of the Nation's school children by updating the nutrition standards for school meals and by providing State agencies and local food service operators with the technical assistance to meet these standards. In addition to announcing a fundamental change in the direction of the school meals programs, the rulemaking implemented section 106(b) of Public Law 103–448, the Healthy Meals for Healthy Americans Act of 1994, which was enacted on November 2, 1994. That provision amended section 9(f) of the National School Lunch Act (NSLA) (42 U.S.C. 1758(f)) to require that school meals meet the Dietary Guidelines for Americans (hereinafter referred to as the Dietary Guidelines) by School Year 1996/1997, unless an implementation waiver of up to two years was approved by the State agency. The rule also established specific minimum standards for key nutrients (protein, calcium, iron, Vitamin A and Vitamin C), and calories which school meals must meet. (As discussed later, these standards are now also included in section 9(f) of the NSLA.)

To assist schools with implementation of the updated nutrition standards, the School Meals Initiative (SMI) rule provided three menu planning alternatives: Nutrient Standard Menu Planning (NSMP), Assisted Nutrient Standard Menu Planning (ANSMP) and a food-based menu planning alternative. After publication of the final SMI rule, Public Law 104–149, the Healthy Meals for Children Act, was enacted on May 29, 1996. It expanded the number of menu planning alternatives which school food authorities have available to them by including the menu planning system that was in effect for School Year 1994–95, as a permanent option as well as "any reasonable approach, within guidelines established by the Secretary * * *."

Before a proposed rule to implement Public Law 104–149 could be published, Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, was enacted on August 22, 1996. This law further amended section 9(f)(1)(B) of the NSLA to mandate that school lunches and breakfasts provide, over a week, one-third and one-fourth, respectively, of the Recommended Dietary Allowances (RDA) established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Because these requirements are already included in the regulations establishing the new specific nutrition standards for school lunches and breakfasts (§ 210.10(b) and § 220.8(a), respectively), this proposal would only add the appropriate RDA requirements for the traditional meal pattern.

Menu Planning Systems

The sole menu planning system that was in effect for School Year 1994–95 was a meal pattern (the "traditional" meal pattern) which stipulated the food components (meat/meat alternate, fruits/vegetables, bread/bread alternate, and milk) and the minimum quantities of those components that had to be offered to children of specific age/grade groups. This meal pattern was virtually unchanged since the establishment of the NSLP in 1946 and, until the June 13, 1995, rulemaking, was the only menu planning system available to school food authorities.

In order to provide flexibility as well as the tools that school food authorities would need to meet modern nutrition standards for children, the Department developed new menu planning alternatives designed to facilitate compliance with the Dietary Guidelines and the other nutrition-related requirements of section 9(f) of the NSLA. NSMP and ANSMP provide menu planners with more flexible approaches by eliminating the strict component and quantity requirements. Also, NSMP and ANSMP provide actual nutrient information, including fat and saturated fat levels, to menu planners on an on-going basis. In addition, after the initial proposal in 1994, the Department developed the enhanced food-based menu planning option which increased the minimum number of servings over a week's time for the fruits/vegetables and grains/breads components in order to maintain calorie levels while keeping the percentages of calories from fat and saturated fat to 30 percent and less than 10 percent, respectively, as required. School food authorities were given the option of choosing which of these menu planning alternatives best suited their particular circumstances.

The Department developed these menu planning alternatives with the Dietary Guidelines nutrition standards of the NSLA as the fundamental element. The Department continues to believe that the enhanced food-based, NSMP and ANSMP alternatives best support compliance with the Dietary Guidelines. However, the Department acknowledges that some school food authorities are progressing toward meeting the Dietary Guidelines under the traditional meal pattern. Therefore, the Department has concluded that, with increased emphasis on vegetables, fruits and grain products and with appropriate modifications to preparation techniques and product specifications, the traditional meal pattern may support all of the nutrition standards required by the NSLA. In recognition of this potential, the President signed Public Law 104–149 which amended section 9(f) of the NSLA to authorize the traditional meal pattern as a permanent menu planning alternative as well as any other reasonable approaches to menu planning under guidelines established by the Secretary.

The remainder of this preamble discusses the proposed implementation of the recent statutory amendments. This proposal also clarifies monitoring procedures for assessing compliance with the Dietary Guidelines and the other nutrition standards for all menu planning alternatives.

The 1994–95 Meal Pattern (The Traditional Meal Pattern)

This proposal would reinstate the menu planning system in effect for School Year 1994–1995 as a permanent alternative for planning school menus under the NSLP and SBP. The SMI final rulemaking did not allow continued use of the traditional meal pattern after June 30, 1998, the latest date that school food authorities could be authorized to delay compliance with the Dietary Guidelines. Therefore, the provisions for the traditional meal pattern for the NSLP were moved to a separate section (§ 210.10a) so that schools could continue using the traditional meal pattern until the newer menu planning alternatives had been fully implemented. Similarly, the traditional meal pattern for the SBP was redesignated as § 220.8a.

Now that Public Law 104–149 has reinstated the traditional meal pattern as a permanent, food-based menu planning alternative, this proposal would incorporate it into paragraphs (d) and (k) of § 210.10 and into paragraphs (c) and (g) of § 220.8 where the requirements for the food-based menu planning alternative established by the June 13, 1995, final rule are set forth. Sections 210.10a and 220.8a would be removed. Please note that, due to the statutory amendment made after publication of the final rule, the

traditional menu planning approach will remain in effect after the July 1, 1998, implementation deadline in § 210.10 (o) and § 220.8(m). To distinguish between the two food-based systems, the meal pattern in effect for School Year 1994/1995 would be formally renamed the "traditional food-based menu planning alternative." The food-based menu planning alternative established in the June 13, 1995, rulemaking would be renamed the "enhanced food-based menu planning alternative."

RDA for the Traditional Food-Based Menu Planning Alternative

One proposed revision to § 210.10(d) of the NSLP regulations would add a chart indicating the amounts of calories and required nutrients that equal one-third of the RDA for key nutrients and calories for the age/grade groups of the traditional food-based menu planning alternative. A similar chart showing one-fourth of the RDA for key nutrients and calories for breakfasts would be added to § 220.8(c). These additional charts are necessary as the traditional food-based menu planning alternative follows different age/grade groupings than used for the NSMP, ANSMP, and enhanced food-based menu planning alternatives.

The Department recognizes the importance of offering meals that provide a proportionate share of the nutritional needs of the nation's schoolchildren, and that determination of whether those needs are being met must be based on the most accurate data available. To this end, the Department has calculated the RDA for each age group using computer software specifically designed for this purpose. In creating the enhanced food-based menu planning alternative, the Department developed age/grade groupings that were averaged to more precisely meet the calorie and nutrient levels at each age or stage of development. Uniform groupings, based as closely as possible on the actual nutritional needs of the various ages, for the two food-based systems would be preferable. However, section 9(f)(4)(A)(i) of the NSLA requires the availability of the traditional meal pattern as it existed in the 1994–1995 school year. The Department, therefore, does not want to add complexity to the traditional approach by proposing to make more precise age/grade groupings apply to both food-based menu planning alternatives. While this means menu planners using the traditional meal pattern may continue to meet a single set of quantity requirements for all children in the school, regardless of their age or grade, the Department is concerned that this practice could undermine the nutrition goals of the programs, since the food service would not be as responsive to respond to the varying needs of children of different ages. The Department recognizes the need to provide the traditional approach without additional requirements but is also concerned with the need to meet the appropriate nutrition standards. Therefore, interested parties in the food service, nutrition and scientific communities may wish to comment on the appropriateness of allowing a single age/grade grouping and the associated nutrition standards.

"Any Reasonable Approach"

Public Law 104–149 amended section 9(f)(4) of the NSLA to permit school food authorities to use "any reasonable approach" to menu planning not specifically delineated in section 9(f)(3) and (4) of the NSLA. The law makes it clear, however, that "reasonable approaches" must meet guidelines established by the Secretary. In developing appropriate guidelines, the Department believes there will be two distinct classes of proposed alternative approaches. First, some proposed alternatives will consist of relatively minor modifications to one or another of the four existing menu planning systems. For this type of suggested alternative, the Department is proposing to allow State agencies to establish a general policy allowing school food authorities to adopt such approaches without prior Departmental approval. The second class of alternatives will involve unique proposals that depart significantly from existing systems. The Department is proposing to redesignate § 210.10(l) through (o) as § 210.10(m) through (p) and to add a new § 210.10(l) to establish basic requirements for authorizing both classes of alternate menu planning approaches. For the SBP, § 220.8(h) through (m) would be redesignated as § 220.8(i) through (n) and § 220.8(h) would provide for alternate menu planning approaches.

Minor "Pre-Approved" Modifications

The first proposed class of alternate approaches is specific, minor modifications to provisions of the existing menu planning alternatives and would be added at § 210.10(l)(1) and § 220.8(h)(1). While the State agency may require prior approval or may establish additional guidelines for their adoption, these modifications would be considered "pre-approved" in that State agencies may allow their use without any additional review. Of course, as part of their general oversight responsibilities under the NSLA, State agencies must ensure that the school food authority's operations, including these "pre-approved" options, are consistent with the NSLP and SBP regulatory standards, even if State agencies do not require pre-approval. The modifications are: a weekly meat/meat alternate standard (for the NSLP only) and flexible age/grade groupings for the food-based menu planning alternatives (for both the NSLP and SBP). While only two modifications are proposed, the Department solicits suggestions on similar variations that could be included under this category of other approaches.

The Department was also asked to consider extending a policy currently applicable only to lunches planned under the enhanced food-based menu planning approach to the traditional food-based menu planning approach. This policy, at § 210.10(k)(2), allows menu planners to credit up to one grain-based dessert daily towards the weekly grain/bread requirements. This policy was established to provide additional flexibility for menu planners as the number of required grain/bread items increased substantially over the number required for the traditional food-based menu planning approach. For example, for grades 7–12, the traditional food-based alternative required eight servings (but recommended 10) while 15 servings are required for the enhanced food-based approach.

The Department gave this suggestion serious consideration. However, crediting up to one grain-based dessert daily as a serving of grains/breads for the traditional food-based menu planning alternative is too significant a proportion of the total number of required grain/bread items. A child selecting a grains-based dessert on a daily basis would have the majority of their grains/breads component over the week met through the consumption of dessert. Given this concern, the Department is not proposing to extend this policy to the traditional food-based menu planning approach. However, the Department would appreciate comments on this issue.

1. Weekly Meat/Meat Alternate Quantity Standard

Some food service directors have indicated that it is not always practical to offer the full daily minimum portion of the meat/meat alternate component required for the NSLP under the food-based menu planning alternatives. For example, a serving of less than the required four tablespoons of peanut butter or two ounces of cheese in a sandwich may produce a more

appealing entree while the full amount required can lead to waste. To address this situation, those school food service directors have suggested that schools using either of the food-based menu planning systems be allowed the flexibility to vary the quantity of meat/meat alternate on a daily basis as long as the total amount served over the course of the school week equals the minimum daily quantity multiplied by the number of serving days in the week. For example, the amount of meat/meat alternate served on a given day could be only one ounce or the equivalent provided that the full 10 ounces (for grades 4–12) or equivalent of meat/meat alternate were available over a five day week. This alternative would enable meal planners using a food-based alternative much of the same flexibility enjoyed by their counterparts using NSMP while still ensuring that minimum quantities of essential foods were offered to children over a week's time.

After considering this suggestion, the Department agrees that it could provide additional flexibility without compromising the nutritional integrity of the meals served over the course of the school week. However, the Department does not believe that the school food authority's ability to vary the quantity of this component should be completely unrestricted. Therefore, the Department is proposing to require that a minimum of one ounce or its equivalent of meat/meat alternate be offered daily. This proposal would ensure that the amount of meat/meat alternate offered to the student will be reasonably consistent each day while still providing menu planners with enhanced flexibility. The Department emphasizes that the option to vary the size of the meat component would not apply to those situations in which the minimum quantity requirement is one ounce or less.

The Department is not proposing to extend this option to the meat/meat alternate-grains/breads component of school breakfasts because flexibility is already provided under the food-based menu planning alternatives. However, comments are requested on whether extending the weekly meat/meat alternate to the SBP would be useful and appropriate.

In proposing this option, the Department recognizes that there will be complexities with its implementation, especially in schools that offer multiple entree choices, since children may not select items over the week that equal the full weekly meal component requirement. Therefore, comments are particularly requested on these and other potential difficulties as well as any suggestions on ways to ensure that the nutritional integrity of the meal service is not compromised. The modification for the meat/meat alternate component is proposed at § 210.10(l)(1)(i).

2. Flexible Age-Grade Groupings for Food-Based Alternatives

Children enrolled in a given school may span different age/grade groupings for purposes of the nutrient and calorie level requirements and corresponding portion sizes for components under the food-based menu planning alternatives. Under the NSMP and ANSMP menu planning alternatives, if only one age or grade is outside the established nutrient and calorie level requirements for the majority of children, schools are permitted, under § 210.10(i)(1)(ii) and § 220.8(e)(1)(ii), to use the nutrition standards for that majority. In the interests of consistency and flexibility, the Department is proposing to extend this option to the food-based alternatives as well.

Under the proposal, schools using the enhanced food-based alternatives would be permitted to plan menus using the minimum quantity requirements applicable to the majority of children *provided* that no more than one age or grade falls outside the requirements for the majority of children. For example, if a school following the enhanced food-based menu planning alternative serves children in grades 6, 7 and 8, the school may, if it chooses, plan menus meeting the nutrient levels and quantities for grades 7 through 12 in lieu of varying the menus and portion sizes for the children in grade 6. This option would eliminate the need to meet two sets of nutrient and calorie levels as well as portion requirements when only a limited number of children are affected. The Department notes that this option will generally be applicable to schools using the enhanced food-based alternative since it is not needed for the traditional food-based menu planning alternative because of the broader range of the groups and because schools may use the portion sizes for the grades 4–12 group when the school has a large number of grades. However, under the proposal, this option could be adopted by schools using either food-based menu planning alternative. This proposed change would be found at § 210.10(l)(1)(ii) for the lunch program and at § 220.8(h)(1) for the breakfast program.

The Department believes that school food authorities should plan menus and offer meals that best meet the nutrient and calorie levels for each age or grade group of all of the children. The age/grade groupings are geared to best meet the recommended levels of calories and other nutrients for a particular period in a child's development. However, the Department also recognizes that allowing the proposed option for schools using the food-based alternatives provides increased flexibility.

Major Changes or New Alternatives

The second class of alternate approaches concerns major changes to one of the existing menu planning systems and may be developed by either school food authorities or State agencies. Within this second class, the regulations, as proposed, would require that any major change or new alternative developed by a school food authority be subject to State agency review and approval. State agency approval is critical because major variations developed and used only by a school food authority need to be carefully assessed to gauge potential impact on the delivery of meals to children, both nutritionally and fiscally. Further, school food authority-level approaches would not have the benefit of the State agency's expertise when forming their approach. State agency-developed alternatives would be subject to Departmental review and approval unless there was an on-going State agency/school food authority partnership and enough school food authorities intending to adopt the alternate approach to warrant the significant involvement of the State agency.

Written Submissions

The Department is proposing that any alternate approach developed by either a school food authority or State agency be committed to writing prior to its implementation. The written description must outline the intended procedures as well as indicate how the required elements for alternate approaches (as proposed under § 210.10(l)(3) and § 220.8(h)(3) for the lunch and breakfast programs, respectively) will be met. For those approaches subject to prior review, a written submission is needed to ensure a comprehensive review. For those approaches not subject to prior review, a written description needs to be available for monitoring purposes. The Department is not, however, proposing any specific format or requiring a formal plan, other than proposing that the intended procedures and the required elements be addressed in writing for any proposed alternative approach. This

provision is proposed at § 210.10(l)(2) and § 220.8(h)(2).

State Agency-Developed Systems: Approval Procedures

Some State agencies have developed or intend to develop their own menu planning alternatives for use by their school food authorities. State agency-developed alternatives could involve either extensive modifications to one of the existing menu planning alternatives or development of an altogether new alternative. As mentioned above, the Department is proposing different approval procedures for State agency-developed approaches depending on whether there is on-going, operational support from the State agency.

For the purpose of approval, the first type of a State-agency developed alternate approach is one that the State agency develops and then makes available to its school food authorities without on-going support and assistance. Because the State agency will not have any on-going operational role in such approaches, the Department believes independent review is essential prior to implementation of an alternate approach by any school food authority. This review would ensure that the changes or the new alternative adequately meets program requirements and goals. Therefore, the Department is proposing to require State agencies to submit this type of alternate approach to the Food and Nutrition Service (FNS) for review and approval before implementation. The approval procedures are proposed at § 210.10(l)(2) and § 220.8(h)(2), respectively, for the lunch and breakfast programs.

The second type of alternate approach would also involve either extensive modifications to one of the existing menu planning alternatives or development of an altogether new alternative. The Department is proposing that these approaches not be subject to approval by FNS when the State agency is an active and on-going partner with the school food authorities, if there are a sufficient number of school food authorities adopting it to warrant the State agency's commitment of resources necessary to its successful operation and the State agency issues an announcement notifying the public of the alternate approach. With the State agency's active involvement, there is oversight as well as the ability to promptly adjust the policies and procedures of the approach to ensure efficient and effective operation and compliance with all applicable requirements. The Department is proposing that these approaches must be adopted by at least five school food authorities within the State. The proposed requirement for a public announcement allows for review of the State agency's approach by any concerned parents, students, program administrators, etc. In addition to the public announcement, the Department considered requiring that State agencies hold public hearings (in accordance with established State procedures) on these types of alternative approaches. The Department would appreciate comments on whether public hearings, in addition to the public announcement, are a more effective way to notify the public and whether the benefits of conducting a hearing outweigh the costs to the State agency.

This type of State agency-developed alternate approach is intended to allow innovative, large-scale State agency-sponsored menu planning systems to operate without prior approval. An example of a large-scale system that extensively modifies current regulatory requirements (specifically the weighting component and software requirements for NSMP) is the Shaping Health as Partners in Education (SHAPE) program, which has been successfully operated in California for several years. Because the SHAPE program is already operational, the requirement for issuing a public announcement is not applicable.

The Department emphasizes that the different approval requirements for the State agency-developed alternate approaches are based on the differing degrees of State agency involvement. When the State agency is acting as a partner and is routinely assisting school food authorities and providing technical assistance, it can, if needed, quickly determine if implementation at the local level is not successful or if the system itself needs to be modified to meet the required elements such as compliance with the nutrition standards. In the other situations, there is no continuous State agency presence. Instead, the State agency simply makes the system available to local school food authorities as another option from which they may chose and would only be able judge its effectiveness under normal review procedures. Therefore, the Department is proposing, at § 210.10(l)(2)(iii) and § 220.8(h)(2)(iii), that any State-agency developed system is not subject to prior FNS approval if five or more school food authorities adopt the approach, if the State agency maintains on-going oversight including making adjustments to the approach's policies and procedures, as needed, to ensure compliance with the nutritional and other meal service requirements, and if the State agency makes a public announcement concerning the alternate menu planning approach prior to its implementation by any school food authority. Please keep in mind, though, that all alternate approaches would be subject to the proposed minimum requirements discussed below.

Required Elements for Alternate Approaches

In devising the guidelines for reasonable approaches other than the proposed "pre-approved" modifications, the Department balanced the necessity to foster innovation and flexibility with the equally compelling need to maintain program accountability administratively, fiscally and nutritionally. The basic consideration is that every menu planning alternative, regardless of the source or the level of approval, must meet all statutory requirements. Also, the Department is proposing to include a limited number of guidelines that are based on discretionary regulatory procedures that the Department feels are essential to effective and efficient program management unless the alternate approach is one of the distinct situations with on-going State involvement (the second type discussed above). With this extra involvement and oversight by the State agency, school food authorities would be provided additional flexibility.

Offering Fluid Milk

Section 9(a)(2) of the NSLA (42 U.S.C. 1758(a)(2)) requires that school food authorities offer fluid milk to children participating in the NSLP. Section 4(e)(1)(A) of the Child Nutrition Act of 1966 (CNA), (42 U.S.C. 1773 (e)(2)), requires that a combination of foods be served in the SBP and that breakfasts "* * * meet minimum nutritional requirements prescribed by the Secretary * * *" The provision of fluid milk is one of the minimum nutritional requirements established for the SBP under § 220.8(h). Therefore, any alternate menu planning approach must also offer fluid milk for both the NSLP and SBP. The provisions requiring milk to be offered in the school programs for any alternate approach are proposed at § 210.10(l)(3)(i) and § 220.8(h)(3)(i), for the NSLP and SBP, respectively.

Offer Versus Serve (OVS)

Section 9(a)(3) of the NSLA (42 U.S. C. 1758(a)(3)) requires that schools implement OVS in the NSLP for senior high school children; at local option, school food authorities may adopt OVS in the lunch program for lower grades as well. Under section 4(e)(2) of the CNA (42 U.S. C. 1773 (e)(2)), local

school food authorities may also implement OVS for the SBP. OVS encourages children to make selections that they prefer, thus helping to reduce plate waste. Because of the statutory mandate, any menu planning alternative designed by an school food authority or State agency for use in the NSLP must include OVS for senior high school children. OVS will continue to be optional at the discretion of school food authorities in the SBP.

While OVS would continue to be required for senior high school students, school food authorities and State agencies would be permitted by this rulemaking to propose alternatives to the OVS approaches currently permitted in the regulations. Such approaches must be based on the existing regulatory OVS structures as much as possible. For example, OVS for alternate food-based systems must be patterned on the OVS requirements in § 210.10(k)(6) and § 220.8(g)(3), while those for alternate NSMP approaches must be based on the requirements of § 210.10(i)(2)(ii) and § 220.8(e)(2)(ii).

If the existing OVS procedures in § 210.10(k)(6)/§ 220.8(g)(3) or § 210.10(i)(2)(ii)/§ 220.8(e)(2)(ii) are not followed, the description of the alternate approach must indicate what age/grade groups are included, how plate waste would be reduced and how the meal, as taken, will provide a reasonable level of nutrients and calories. As discussed in more detail below, any modifications to the existing OVS procedures must include the number and type of items (and, if applicable, the quantities for the items) that constitute a reimbursable meal. These provisions on OVS in alternate menu planning approaches are proposed at § 210.10(l)(3)(ii) and § 220.8(h)(3)(vi) for the lunch and breakfast programs, respectively.

Nutrition Standards

As discussed earlier, the NSLA requires school lunches to approximate, over a week's time, one-third of the RDA needed by growing children of different ages. School breakfasts must provide one-fourth of the RDA. In addition, the menus must comply with the recommendations of the Dietary Guidelines. These requirements cannot be modified.

Therefore, any alternate menu planning approach must ensure that these standards, as implemented in § 210.10(b)(1)–(b)(4) for the NSLP and § 220.8(a)(1)–(a)(4) for the SBP, would be met or exceeded for the age/grade groups to be served. In addition, the alternate approach must indicate how the proposal is designed to meet these standards. The requirements are proposed at § 210.10(l)(3)(iii) and § 220.8(h)(3)(ii).

Competitive Foods

For both the NSLP and SBP, Section 10(a) of the CNA (42 U.S.C. 1779(a)), requires regulations "* * * relating to the service of food * * * in competition with the [school meals] programs * * *." To implement this provision, § 210.11(b) and § 220.12(a) prohibit the sale of foods of "minimal nutritional value" in the cafeteria area during the service of meals. Appendix B to each of these parts lists the foods considered to be foods of minimal nutritional value. Any alternate approach may not alter this statutory provision and the implementing regulations. This restriction is proposed at § 210.10(l)(3)(iv) and § 220.8(h)(3)(iii) for the lunch and breakfast programs, respectively.

Crediting Foods Under Food-Based Type Approaches

Paragraphs (k)(3)–(k)(5) and (m) of § 210.10; § 220.8(g)(2) and (i); and the Appendices to Parts 210 and 220 provide the basic crediting policies for food items offered in the school meals programs for food-based menu planning alternatives. These crediting policies are expanded upon in FNS instructions and guidance. This proposal would require that any alternate food-based menu planning approaches follow the existing food crediting policies for school meals. The Department's standards for crediting food items are designed to maintain the nutritional integrity of school meals by ensuring that foods used to satisfy quantity and component requirements provide a sufficient amount of the component or its equivalent to count toward meeting the meal requirements.

To be credited, foods must be both present in the minimum required quantities and identifiable as at least one of the required food components of the meal pattern (meat/meat alternate, fruits/vegetables, grains/breads and fluid milk). These foods may be served as single food items or as combinations in recipes or in commercially processed foods. To assist in the identification of the definition of the basic foods, the Department relies on government and industry standards of identity and/or specifications. These standards are essential to ensuring that the individual meal merits Federal reimbursement and that the meal service, over time, complies with the programs' nutrition standards. Therefore, the Department is proposing at § 210.10(l)(3)(v) and § 220.8(h)(3)(v) that the minimum quantities established to credit food items as components under the food-based menu planning systems be adhered to in any food-based menu planning alternate approach.

Identification of a Reimbursable Meal

The concept of a reimbursable meal is essential to program integrity. Sections 210.10 and 220.8 of the regulations establish definitions of a reimbursable meal for the four menu planning alternatives currently recognized by the NSLA. Under the traditional meal pattern and the enhanced food-based menu planning system for lunches, the school food authority must offer minimum quantities of a meat/meat alternate, a grain/bread item, two separate fruits/vegetables and fluid milk as a beverage. This requirement is found at § 210.10(k). Under NSMP and ANSMP, the school must offer an entree, fluid milk and at least one additional menu item for lunches. This requirement is found at § 210.10(i)(2)(i) for the NSLP. The parallel requirements for the SBP are at § 220.8 (e) and (g).

This proposal would require that any alternate approach comply with the current requirements for reimbursable meals to the extent possible. When the existing procedures are not followed, the proposed alternate approach must detail what constitutes a reimbursable meal, including the number and type of item (and if applicable, the quantities for each item) and how a reimbursable meal is to be identified at the point of service by the children, the cashiers, and any reviewers. The proposals appear at § 210.10(l)(3)(vi) and § 220.8(h)(3)(v), respectively, for the school lunch and breakfast programs.

Monitoring Compliance

Section 210.18 of the regulations establishes methods for determining if school food authorities are meeting the administrative requirements for the school meals programs while § 210.19 provides for reviewing compliance with the nutrition standards. In determining the essential elements for any alternate approach, the Department believes that these monitoring aspects must be incorporated so that the State agency can determine if reimbursable meals are being offered, accepted, and properly counted and if the meal service is in compliance with all of the nutrition and administrative standards.

The Department expects that, in most cases, alternate approaches can be monitored within the existing criteria for both coordinated review effort (CRE) and nutrition reviews. As discussed below, some aspects of Performance Standard 2 in § 210.18 must be modified

to take into account the flexibility for alternate approaches. However, the Department does not believe that the procedures for conducting CRE reviews will need to be revised in order to accommodate alternate approaches. Therefore, this rule would require, in § 210.10(l)(vii) and § 220.8(h)(3)(vi), that the alternate approach be subject to CRE reviews under the current procedures provided in § 210.18.

However, in some cases, the proposed alternate approach may not lend itself to the established nutrition review methods. Therefore, to allow the State agency to ensure that an alternate approach can be reviewed adequately for compliance with the nutrition standards, any alternate approach must include either an explanation of how the alternate approach could be monitored within the existing criteria in § 210.19 or a comprehensive nutrition monitoring plan that the State agency could follow. As part of this plan, the alternate approach must include a description of the records it will maintain to document compliance with administrative and nutrition requirements. This provision is proposed at § 210.10(l)(3)(vii) and § 220.8(h)(3)(vi) for both the administrative and nutrition review aspects. Conforming amendments are also proposed to § 210.19(a) and are discussed in greater detail later in this preamble.

Weighted Averages for NSMP/ANSMP

Sections 210.10(i)(5) and 220.8(e)(5) require school food authorities using NSMP or ANSMP to conduct nutrition analyses by weighting all foods planned as part of the reimbursable meal service. This weighting is done according to the frequency with which each food is actually offered. The purpose of weighting is to assist in ensuring that meals actually offered to children meet the nutrition standards. The Department acknowledges that weighted averages are not the only way to ensure compliance with the nutrition standards. In fact, in order to make the transition to the updated menu planning methods easier and to ensure that every avenue for promoting sound nutrition is explored, the Department has authorized temporary waivers of this regulatory requirement. The waivers allow the Department the opportunity to evaluate weighted and unweighted averages to determine their accuracy in indicating determinations of compliance with the nutrition standards. The Department believes that this temporary postponement through a State agency waiver is the appropriate way to ease implementation and to permit further evaluation of this requirement. As part of this evaluation process, the Department is particularly interested in receiving comments on the use of a weighted nutrient analysis versus nonweighted approaches. Comments from operators using nutrient analysis and their experiences with weighting would be especially helpful. The Department would also like comments from State agency reviewers and their experiences with weighting when evaluating meal services.

However, until the Department determines that alternatives to weighted averages adequately ensure that meals comply with the nutrition standards, weighted averages continue to be required for NSMP systems other than those for which a waiver has been granted. Accordingly, the Department is proposing to require compliance with the weighting requirements for alternate NSMP-type approaches. However, the Department is proposing to provide added flexibility in those instances in which the State agency has developed the alternate approach and is a partner with at least five school food authorities and maintains on-going oversight of the operation and evaluation. The level and consistency of the State agency's involvement coupled with a more rapid response to problems in order to make needed adjustments allows for further innovation. These provisions are proposed at § 210.10(l)(3)(viii) and § 220.8(h)(3)(vi).

Approved Software for NSMP and ANSMP

Sections 210.10(i)(4) and 220.8(e)(4) require menu planners using NSMP or ANSMP to conduct or to have their analyses conducted using software that incorporates the National Nutrient Database for Child Nutrition Programs and is approved by FNS. The software must meet the minimum requirements established by FNS such as having the capability to perform all functions required after the basic data has been entered, including calculating weighted averages, and the optional combining of the analyses of the NSLP and SBP. The Department is aware that there are many nutrition software packages available; however, many of these are for individuals or for clinical settings such as hospitals. The software approved by FNS is designed to meet the needs of school food service professionals and fulfills two essential criteria—the ability to perform all the requirements of the regulations and the achievement of uniform results. The Department also notes that the number and variety of software packages approved to date ensures that school food authorities have extensive flexibility in choosing a package that best meets their individual needs. Therefore, this proposal would require, at § 210.10(l)(3)(viii) and § 220.8(h)(3)(vii), that any alternate approach use approved software.

Again, however, the Department is proposing to allow modification of the required specifications for software for any alternate approach under the same limited circumstances allowing for modification of weighted analysis. In those situations in which the State agency developed the alternate approach and remains an active partner and five or more school food authorities adopt the alternate approach, the Department is proposing, at § 210.10(l)(3)(viii) and § 220.8(h)(3)(vii), to permit the use of software which does not meet the regulatory requirements. While this means that the software would not need to incorporate the National Nutrient Database nor would it be required to have prior FNS approval, the alternate approach would still need to meet all the nutrition standards. Again, the Department believes that the on-going State agency oversight provides sufficient assurance that any software will provide appropriate nutrient analysis and, to the extent that deficiencies are identified, that they will be rapidly addressed.

The Department also wishes to emphasize that weighted analyses and standard software packages do not, in and of themselves, determine the kinds and amounts of foods provided. Rather, they are fundamentals in the internal monitoring system which enables schools, school food authorities, and State agencies to measure the success of the food service in complying with the nutrition standards. Consequently, modification of these requirements, without substantial care and involvement by the State agency, may undermine the accuracy of the nutrition analysis and compromise the ability of menu planners to make necessary adjustments. This is the basis for the Department's decision to not apply the weighting and software specification requirements to those situations in which there will be substantial State agency involvement and oversight.

Monitoring Requirements for Compliance With the Nutrition Standards

The Department is proposing to clarify some aspects of the nutrition monitoring requirements in order to ensure appropriate State agency oversight of all menu planning alternatives. In addition, some conforming amendments are proposed due to the reinstatement of the

traditional food-based menu planning alternative and the availability of alternate approaches.

Monitoring Procedures for the Traditional System and for Alternate Approaches

The current monitoring provisions for the food-based and nutrient standard menu planning alternatives are found at § 210.18 and § 210.19. As discussed earlier, any alternate approach must be capable of being monitored under § 210.18. In addition, if the alternate approach cannot be monitored under § 210.19, there must be a description of alternate monitoring procedures to ensure compliance with the fiscal, administrative and nutrition standards.

This proposed rule would amend § 210.18 and § 210.19 to make clear that the existing monitoring requirements apply to the traditional food-based menu planning alternative as well as to the enhanced food-based and nutrient standard menu planning systems. In addition, technical amendments are made to modify the terminology in § 210.18 and § 210.19 related to Performance Standard 2 which establishes review criteria to assure that the lunches served by schools are reimbursable. In other words, any school lunch must contain whatever meal elements that are required for reimbursable lunches under each of the menu planning alternatives. In order to clarify that all the various menu planning approaches are subject to Performance Standard 2, technical amendments are proposed to § 210.18(b)(2)(ii), (g)(2), and (i)(3)(ii) and to § 210.19(c)(6)(i) to reference the various terms used to stipulate the elements in a reimbursable meal.

Finally, § 210.19 would be amended to make clear that the nutrition review procedures for food-based and nutrient standard alternate approaches are the same as those for food-based and nutrient standard menu planning systems, respectively, except for those alternate approaches that do not lend themselves to existing nutrition review procedures. In those cases, the nutrition review procedures are those review procedures developed under § 210.10(l).

Adjustments to Review Periods

The Department is proposing to adjust the review period for nutrition reviews. Currently, paragraphs (a)(1)(i) and (ii) of § 210.19 stipulate that the State agency is to review the school's nutrition analysis or conduct an independent analysis for the last completed week prior to the review. The intent of this provision was to ensure that the analysis reflected the current state of the meal service. However, some State agencies have noted that, under CRE, as detailed in § 210.18, State agencies select the month prior to the month of the review as the sample period. Consequently, State agencies which would elect to conduct nutrition reviews concurrently with CRE reviews will likely need to look at two different review periods during the same visit. Therefore, in the interests of efficiency, this proposal would permit reviewers to conduct the assessment of compliance with nutrition standards for any week of the current school year prior to the month of the review. However, the week selected must continue to represent the current state of the meal service. The State agency could select, for example, a week for the nutrition review that was in the same month in which a CRE was scheduled. The Department believes that this proposed provision will still allow State agencies to determine whether the program is in compliance with the nutrition standards and, if necessary, prescribe appropriate steps for improvements by requiring review of a relatively current period that is typical of the on-going meal service. This change is proposed at § 210.19(a)(1)(i).

Extent of Reviews

Another proposal would amend § 210.19(a) to clarify that, during the review cycle, State agencies must review at least one school for each type of menu planning alternative used by the school food authority. For example, if eight schools in a school food authority use the traditional meal pattern, three use the enhanced food-based system and five use NSMP, the State would select at least one school from each category. The Department recognizes that, in some cases, this requirement would result in more schools being visited for nutrition compliance than are required to be reviewed under CRE. The Department believes, however, that this coverage is essential to ensure that the school food authority is following all alternatives correctly. For example, a school food authority may be achieving great success with the enhanced food-based system but may not be conducting NSMP properly. The only way for the State agency to identify this problem, provide appropriate technical assistance and require corrective action is to examine the school food authority's experience with all alternatives in use. This amended is proposed at § 210.19(a)(1).

The proposal would also clarify that State agencies are required to perform the necessary nutrition review on only the lunch program unless the school food authority uses a particular menu planning alternative only for the breakfast program. For example, if all of the schools in a school food authority use either NSMP or the enhanced food-based system for lunch, and at least some of the schools use the traditional food-based menu planning alternative for breakfast, the State agency would need to conduct two lunch reviews (one of a school using NSMP and one of a school using the enhanced food-based system) and one review of a breakfast program which uses the traditional meal pattern. However, if all three of these alternatives are used for the lunch program in the school food authority, no review of the breakfast program would be needed. The Department cautions, however, that if the lunch review indicates that the school food authority needs technical assistance and/or corrective action, the State agency may wish to review a breakfast program as well to determine if the school food authority needs to take specific corrective action for that program as well. In these cases, the review of the breakfast program could be done either at the time of the initial lunch review or as part of any follow-up needed to further evaluate the results of technical assistance or corrective action.

Conforming Review Cycles

Finally, the Department is proposing a minor technical amendment to § 210.19(a)(1)(i) to make the cycle for nutrition reviews consistent with the cycle for administrative reviews under CRE. The SMI rule established a five-year cycle for reviews of nutrition compliance and intended that cycle to run concurrently with the CRE cycle so that those States electing to conduct nutrition reviews at the same time as administrative reviews could do so efficiently. The regulation currently stipulates that the first five-year cycle would begin on July 1, 1996, unless the State agency authorized a temporary waiver of compliance with the nutrition standards, in which case the first year of the cycle could begin as late as July 1, 1998. Consequently, the first five-year cycle would end as early as June 30, 2001 or as late as June 30, 2003, depending upon actual implementation. The current CRE cycle ends on June 30, 1998, however, and the next cycle will end on June 30, 2003. Therefore, the two review cycles would be out of sequence for State agencies which implement the regulations before School Year 1998/1999.

While State agencies are not required to conduct nutrition reviews at the same time as administrative reviews, the Department proposes to make the two

review cycles coincide so that State agencies may avail themselves of this option efficiently. To achieve this goal, therefore, the Department is proposing to establish an initial cycle of seven years for nutrition reviews, from July 1, 1996 through June 30, 2003. Thereafter, review cycles would be five years in length. This expanded cycle would allow State agencies more flexibility during the implementation phase to complete reviews and provide schools with necessary assistance.

The Department notes that the extended time frame for completing nutrition reviews increases the need for State agencies to identify school food authorities that may have menu planning difficulties in order to schedule visits to them as early as possible in the cycle. The Department also would like State agencies to comment on any increased potential for noncompliance that might result from this extension and whether or not the Department should consider establishing intermediate review goals within the cycle.

Updating the Dietary Guidelines and Other Technical Changes

Section 9(f)(1)(A) of the NSLA requires that schools offer meals consistent with the goals of the "most recent Dietary Guidelines for Americans." The June 13, 1995, SMI rulemaking incorporated the 1990 edition of the Dietary Guidelines as program requirements because they were, at that time, the latest official version. The Department indicated, however, that later editions would be incorporated to reflect any revisions to the recommendations. In December 1995, the Department, in partnership with the Department of Health and Human Services, issued the 1995 edition. While there were no substantive differences between the 1995 edition and the 1990 edition, there were some minor language revisions. Therefore, the Department is taking this opportunity to propose amending § 210.10(b)(3) and § 220.8(a)(3) to incorporate the minor wording changes of the 1995 guidelines, and to change references to the 1990 guidelines to 1995.

The 1995 Dietary Guidelines also include the suggestion that the diets of children between the ages of two and five should be gradually altered so that, by age five, they receive no more than 30 percent of their calories from fat. Since the Dietary Guidelines do not treat this suggestion as a formal recommendation, the Department is not incorporating it into § 210.10(b)(3) or § 220.8(a)(3), where the Dietary Guidelines' recommendations are enumerated. However, a footnote containing this information would be added to the charts in § 210.10(c)(1), § 210.10(c)(2), § 210.10(d), § 220.8(b)(1), § 220.8(b)(2) and § 220.8(c)(1). The Department is also aware that the RDA are in the process of being reviewed and that an update is scheduled to be released in 1999. At that time, the Department will propose any needed revisions to the key nutrient and calorie levels.

The name of the database used in the nutrient analysis software has been changed from the "National Nutrient Database for the Child Nutrition Programs" to the "Child Nutrition Database." This proposal would, therefore, update the references to the database in § 210.10(i) and § 220.8(e).

It was brought to the Department's attention that there was a misstatement in the preamble of the final regulation published on June 13, 1995. The regulation, Child Nutrition Programs: School Meal Initiatives for Healthy Children, was published in the **Federal Register** at 60 FR 31188. The erroneous statement at 60 FR 31203 was:

* * * program regulations (§ 210.11(a) and § 220.12(a)) prohibit the sale of certain foods of minimal nutritional value in the food service area between the start of school and the last lunch period of the day.

The correct policy is contained in § 210.11(b) for the NSLP. The correct policy is:

Such rules or regulations [established by State agencies or school food authorities] shall prohibit the sale of foods of minimal nutritional value, as listed appendix B of this part, in the food service areas *during the lunch periods.*

(Emphasis added)

This policy may found for the SBP at § 220.12(a).

Although the statement in the preamble was incorrect, the actual regulatory language contained in § 210.11 (b) was correct. The Department regrets any confusion this error may have caused.

Appendix to Preamble—Regulatory Cost/Benefit Assessment

1. Title: National School Lunch Program and School Breakfast Program: Additional Menu Planning Alternatives.

2. Background:

a. Need for Action: Public Law 104–149, the Healthy Meals for Children Act, amended the National School Lunch Act by expanding the number of alternatives available to plan menus for the school meals programs. Section 9(f) of the National School Lunch Act was amended to allow schools to continue using the meal planning system in effect in School Year 1994–95 as well as the other meal planning alternatives already available. In addition, the Act was amended to allow schools to use "* * * any reasonable approach, within guidelines established by the Secretary * * *".

The menu planning system in effect in School Year 1994–95 was the "traditional pattern" which has been in use for many years, and which requires four components (meat/meat alternate, breads/grains, fruits/vegetables and milk) and five items. Because this alternative was to be deleted from the regulations at the end of the implementation period (July 1, 1998), this proposal would reinstate this alternative permanently. In addition, this proposal would establish the guidelines for "any reasonable approach" to ensure that schools continue to serve reimbursable meals and provide proper accountability for Federal reimbursement while still having the flexibility to design a menu planning alternative that meets their particular needs.

Before the Department issued a proposal to implement Public Law 104–149, Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 was enacted on August 22, 1996. This law further amended the National School Lunch Act to mandate that school lunches provide, over a week, one-third of the Recommended Dietary Allowances (RDA) and that school breakfasts provide one-fourth of the RDA. These requirements are, however, already included in the school programs' regulations.

b. Affected parties: The entities affected by this proposal are State agencies, school food authorities, the nation's school children, and the Food and Nutrition Service.

c. Promotes the President's Priorities: This proposal would promote the President's commitment to flexibility for program administrators while continuing to support the objectives of providing meals to the nation's school children that meet the Dietary Guidelines for Americans and other established nutrition standards.

3. Statutory Authority: Public Law 104–149.

4. Cost-Benefit Assessment of Economic and Other Effects:

Reinstatement of the Traditional Meal Pattern

Background: The proposed regulation would reinstate the meal pattern in effect in School Year 1994–1995 as one menu planning alternative. The meal pattern would be incorporated into the section of the regulation establishing the food-based menu planning alternatives and would be entitled the "traditional food-based menu planning alternative." The food-based alternative implemented in the June 5, 1995, final rule would be renamed "the enhanced food-based menu planning alternative." The provision would provide a table with the minimum levels of nutrients (calories, protein, calcium, iron, Vitamin A, and Vitamin C) for the age/grade groups of the meal pattern. Further, the provision makes minor conforming amendments to allow for monitoring compliance with the nutrition standards for this additional menu planning alternative.

Effects of Reinstating the Traditional Meal Pattern

Benefits: The provision permanently reinstating the meal pattern in effect during

School Year 1994–1995 will allow schools to use a meal pattern with which they are familiar. Extensive experience with the traditional meal pattern has allowed schools to successfully develop menus that meet program requirements and are popular with students. The reinstatement of the traditional meal pattern provides schools with an additional menu planning option and even greater flexibility in meeting the nutritional needs of students.

The rule extends nutrition monitoring provisions pertaining to reviews of the enhanced food-based menu planning option to reviews of schools using the traditional meal pattern. School lunches are required to provide, over a week's time, one-third of the RDA for key nutrients (protein, calcium, iron, vitamin A and vitamin C) and calories needed by growing children of different ages. School breakfasts are required to provide, over a week's time, one-fourth of the RDA for key nutrients (protein, calcium, iron, vitamin A and vitamin C) and calories needed by growing children. In addition, schools should be making progress towards providing meals which comply with the Dietary Guidelines, including the recommendations that no more than 30 percent of calories come from fat and that saturated fat be limited to less than 10 percent of calories. The extension of this provision to the traditional food-based meal planning systems will ensure that children in schools using this system will receive meals of comparable nutritional quality as children in schools using the enhanced food-based menu plan. This provision does not require any additional burden of school food authorities as regulations require any menu planning system to provide comparable levels of RDAs for key nutrients and comply with the Dietary Guidelines.

Costs: The 1993 USDA School Nutrition Dietary Assessment Study (SNDA) assessed the nutritional quality of lunches served under the traditional meal pattern. SNDA found that the amount of nutrients in the average school lunch provided under the traditional meal pattern exceeded the standard of one-third of the daily RDA for the age groups at the elementary, middle, and high school level for most nutrients. However, the average percentage of food energy from total fat offered in school lunches was 38 percent, compared with the Dietary Guideline goal of not more than 30 percent; the percentage from saturated fat was 15 percent, compared with the Dietary Guideline of less than 10 percent.[1] In addition, the Continuing Survey of Food Intake by Individuals (CSFII), 1989–91 found that school-age children have average daily intakes of 33.7 to 34.7 percent of calories from fat, and 12.6 to 13.3 percent of calories from saturated fat depending on age-sex group.

The SNDA and CSFII findings heightened awareness of the need to improve the nutritional quality of school meals. In response the Department initiated the School Meals Initiative for Healthy Children, the first program-wide reform of the school meals program since its establishment in 1946. Since the introduction of the School Meals Initiative the Department has provided training and technical assistance designed to assist school food service personnel in implementing the Dietary Guidelines. FNS has sponsored training on the preparation of healthier meals; provided recipes which are lower in fat and sodium; and issued grants to assist State agencies in establishing statewide training systems to assist local agencies in implementing the Dietary Guidelines. The Department has also increased efforts to provide lower fat commodities to local school districts.

Even with increased efforts by the Department, State agencies and school food authorities to provide schools with the knowledge and skills necessary to successfully implement the Dietary Guidelines, the possibility still exists that it might prove difficult for some schools using the traditional food-based meal pattern to comply with the recommendations. In these instances, it may be necessary for the school food authority or the State agency to provide further training of the school food service personnel to enable them to successfully develop meal patterns which comply with the Dietary Guidelines.

The State agency will be responsible for monitoring progress towards meeting the Dietary Guidelines and nutrition standards and for making adjustments in procedures that schools follow in order to ensure effective progress toward eventual compliance with the updated nutritional requirements. Should a number of schools using the traditional food-based menu pattern encounter difficulty in meeting the Dietary Guidelines, the State agency will need to cooperate with the school food authority in designing corrective action to rectify the deficiencies. Additionally, the State agency will need to monitor the execution of corrective action taken by the school food authority to ensure that progress is being made towards meeting the Dietary Guidelines.

Since most State agencies used the1996–1997 school year to train staff to conduct the nutrient analyses, the number of analyses that were actually completed was fewer than expected. As a result, there is no data available on the number of school food authorities that fail to meet the nutrient standards and need to take corrective action.

Any Reasonable Approach to Meal Planning

Benefits: Public Law 104–149 permits school food authorities to use "any reasonable approach" to menu planning not specifically delineated in the regulations. The law makes it clear, however, that approval of other "reasonable approaches" must be in accordance with guidelines established by the Secretary. In developing appropriate guidelines, the Department considers that there are two classes of additional reasonable approaches. The first class of reasonable approaches consists of alternatives which are essentially relatively minor modifications to one or another of the existing menu planning systems. The second class of alternatives would involve unique proposals that depart significantly from the existing systems.

Minor Modifications

The Department believes that minor modifications to existing meal planning systems do not pose significant questions about nutritional content or program integrity. Therefore, to reduce unnecessary paperwork, the Department is proposing to authorize State agencies to permit their school food authorities to choose any of the following adaptations without applying to the State agency for approval. The decision to authorize any or all of these modifications rests entirely with the State agency. State agencies may establish a general policy allowing school food authorities to adopt any or all of these approaches without prior approval or chose to review requests from school food authorities. The preapproved approaches are:

1. Weekly Meat/Meat Alternate Quantity Standard: Schools using one of the food-based menu planning systems would be allowed the flexibility to vary the quantity of the meat/meat alternate on a daily basis as long as the total amount served over the course of the school week equals the minimum daily quantity multiplied by the number of serving days in the week. Schools would still be required to serve a minimum of one ounce of meat/meat alternate daily.

2. Flexible Age-Grade Groupings for Food-Based Systems: Under the analysis-based menu planning options, if only one age or grade in a school is outside the established RDA and calorie requirements for the majority of students, schools are permitted to use the nutrition standards for that majority. In the interests of consistency and flexibility, the Department is proposing to extend this option to the food-based systems as well.

Innovative Approaches

The second class of other reasonable approaches involves innovative systems that are not currently established in program regulations and guidance. These innovative menu planning systems could be developed by school food authorities for use in their schools, or developed by State agencies and made available to their school food authorities. The Department envisions two approaches that State agencies could take in developing menu planning systems. It would be possible for a State to develop a unique menu planning system and then refrain from being involved in the operation or evaluation of the system. In these cases, the system would have to be submitted to the Department for approval before implementation. The second scenario involves systems developed by the State, used by multiple school food authorities (at least five) within the State, and the State agency remains an active partner in the operation and evaluation of the system on an ongoing basis and issues an announcement notifying the public of the alternate menu planning approach. In this case, the State would not be required to submit the system to the Department for approval prior to implementation.

Any meal planning system proposed by a school food authority or a State agency

[1] Burghardt, JC, A. Gordon, N. Chapman, P. Gleason, T. Fraker (1993). The School Nutrition Dietary Assessment Study: School Food Service, Meals, and Dietary Intakes. October 1993.

would have to be assessed for its potential impact on the delivery of meals to children, both nutritionally and fiscally. To achieve these goals, the Department is proposing to establish a framework and criteria for consideration and approval of such requests. Any approach developed by a State agency or a school food authority would need to ensure that the following areas, which are critical to the proper and efficient operation of the program, be satisfied:

1. Identification of Reimbursable Meals: The definition of a reimbursable meal is essential to program integrity. The four menu planning systems specifically recognized by the statute have specific requirements for a reimbursable lunch or breakfast. In keeping with these principles, the school food authority would need to outline, in any proposed menu planning alternative, what constitutes a reimbursable meal; how these will be identified by the students in the line and by food service staff at the point of service; and how reviewers will be able to document compliance. Likewise, the State agency must determine that the reimbursable meal will offer sufficient nutrition on a daily basis to justify Federal reimbursement.

2. Provide for Offer versus Serve: When developing a menu planning alternative, school food authorities must provide for offer versus serve (OVS), as appropriate. Section 9(a)(4) of the NSLA requires that schools implement OVS in the NSLP for senior high students; at local option, school food authorities may adopt OVS in the lunch program for lower grades as well. Local school food authorities may also implement OVS for the SBP. The purpose of OVS is to encourage students to make selections that they prefer, thus helping to reduce plate waste. Therefore, because of the statutory mandate, any menu planning approach proposed by an school food authority or State agency must include OVS for senior high students at a minimum.

3. Compliance with Nutrition Standards: By law, school lunches are required to provide, over a week's time, one-third of the RDA for key nutrients and one-third of the calories needed by growing children of different ages. In addition, the meals must comply with the recommendations of the Dietary Guidelines. School breakfasts must provide one-fourth of the RDA and calorie needs and also must comply with the Dietary Guidelines. Under no circumstances can these requirements be modified. Therefore, any request to employ an alternate menu planning approach would need to demonstrate, to the satisfaction of the State agency, that the menus would continue to meet or exceed these standards. Furthermore, because the RDA can vary by age and/or grade group, the school food authority would need to specify which age/grade groups will be served and indicate what the appropriate RDA and calorie levels are for each age/grade group.

4. Ability to Monitor: Any alternate approach must be capable of being monitored by the State agency to determine that reimbursable meals are being offered, accepted, and properly counted and that the meal service is in compliance with all of the nutrition standards.

While the Department wishes to provide school food authorities with maximum flexibility to develop alternate menu planning approaches, this proposed rule would prohibit State agencies from approving modifications to the existing four menu planning options beyond those discussed above as automatic options. The Department considers that certain requirements governing these options must remain intact except for limited exceptions for special State-wide systems. Consequently, the following operational components of the established menu planning systems may not be modified except as discussed below:

1. Weighted Averages for NSMP/ANSMP: The regulations require schools employing NSMP or ANSMP to conduct their analyses by weighting all foods planned as part of the reimbursable meal service according to the amount of each food actually intended to be produced, based on production records or experience. However, in order to make the transition to updated menu planning methods as smooth as possible and to ensure that every avenue for promoting sound nutrition while minimizing burden is explored, the Department authorized a delay in implementing this regulatory requirement for all schools adopting NSMP until the Department has the opportunity to evaluate the ability of weighted and unweighted averages to provide accurate determinations of compliance with the nutrition standards.

2. Use of Approved Software for NSMP and ANSMP: The regulations also require menu planners electing to use NSMP or ANSMP to conduct or to have their analyses conducted using software approved by the Department. The Department is aware that there are many nutrition software packages available; however, many of these are for individuals or for clinical settings such as hospitals. The software approved by USDA is designed to meet the needs of school food service professionals and fulfills essential school-based needs.

3. Crediting Requirements for Food-Based Alternatives: This proposed rule would prohibit State agencies from disregarding any of the Department's crediting policies for schools electing to use a food-based menu planning system. The Department's standards for crediting food items are designed to maintain the nutritional integrity of school meals by ensuring that foods used to satisfy quantity and component requirements provide a sufficient amount of the component or its equivalent to count toward meeting the meal requirements, standards of identity and/or specifications.

4. Foods of Minimal Nutritional Value: The Department also wishes to emphasize that States may not, under any circumstances, approve the sale of foods of minimal nutritional value as defined in program regulations.

However, the Department is also proposing that, in certain limited situations, menu planning systems, supported by the knowledge and resources of a State agency, can operate with modifications beyond those available to school food authorities while maintaining the necessary control over the nutritional content of their meals. Therefore, this proposal would authorize modification in some menu planning systems of the provisions on weighted nutrient analysis and approved software, provided that: these systems are operated under policies and procedures developed or adopted by a State agency; the State agency remains an active participant in the operation and evaluation of the project on an ongoing basis; and the system is used by multiple school food authorities (at least five) within the State and the State agency issues a public announcement concerning the alternative menu planning approach.

Effects of Implementing "Any Reasonable Means"

Benefits: The provision permitting the use of "any reasonable approach" to menu planning will provide school food authorities with even greater flexibility in developing a menu service which meets the needs and preferences of local children. The rule contains a provision allowing school food authorities to make minor modifications to existing meal planning systems. The rule also contains provisions which allow school food authorities or States to make extensive modifications to existing menu planning systems or to develop innovative systems that are not currently established in program regulations and guidance.

The rule proposes that certain minor modifications by a school food authority to one or another of the existing meal systems would be allowed, at the discretion of the State agency, without prior approval. An example of the additional flexibility to be gained by individual schools is the ability to vary the amount of meat/meat alternate served on daily basis. This provision provides schools with an option that allows them to produce a more appealing entree or to reduce the amount of plate waste while still meeting the minimum weekly serving requirement of a meat/meat alternate.

A school food authority desiring to make more than minor modifications would be permitted to develop a proposal which differs significantly from the existing meal planning systems. The authority to develop their own menu planning systems will allow school food authorities to take into consideration any unique local food preferences or dietary needs when planning such systems.

The provisions of this rule allow State agencies to develop their own menu planning alternatives and make them available to local school food authorities. State agencies will have the opportunity to develop, in consultation with school food authorities within their State, a menu planning system designed to meet the specific needs of the children of their State rather than one designed for the tastes and needs of the national student population.

The rule allows such a menu planning system to use alternate weighting procedures and software while continuing to operate within normal regulatory authority, provided that the system is used by at least five school food authorities within the State, the State agency remains an active participant in the

operation and evaluation of the system on an ongoing basis and notifies the public about their alternative menu planning approach. This provision would provide State agencies with increased flexibility in the selection of software used to conduct the nutrient analyses.

Costs: While it is entirely possible that local menu planners may devise systems which produce nutritious meals which are appealing to children, these innovative systems are, by their very nature, untested and subject to unforeseen consequences. Any unique meal planning system will be required to serve meals which provide the same level of key nutrients as any of the prescribed meal patterns. It is possible that a locally developed system might have difficulty complying with the recommendations. In these instances, school food authorities and States might find it necessary to provide additional training and technical assistance to those schools failing to meet the nutrition requirements. However, it is also reasonable to expect that innovation may result in lower costs methods being devised. In either case, the nutrient standards remain the same; and the anticipated impacts on agriculture and the children's health are verifiable.

As noted previously, the percentage of total calories from fat consumed by school aged children in the late 1980's and early 1990's was above what was recommended by the Dietary Guidelines for Americans. Because States will conduct reviews once every five years, several years may pass before problems in meeting the nutritional guidelines will be detected. If schools fail to meet the nutrient standards using innovative systems, it is possible that the nutritional quality of some school meals may be deficient for a period of up to five years. However, FNS has anecdotal evidence that school food authorities have made improvements in their ability to meet the Dietary Guidelines.

As with the traditional meal pattern, the State agency will still be responsible for monitoring the progress these locally developed systems make toward complying with the Dietary Guidelines and nutrition standards. Should any such system or systems fail to comply with these standards, the State agency would need to work with the school food authorities to devise corrective action that would ensure that the menu planning systems would make progress towards, and eventually comply with, the Dietary Guidelines. If locally developed systems prove to have difficulty meeting the required nutritional requirements, the State agency would be faced with an increased monitoring burden without a concomitant reduction in any other monitoring burdens.

At this time it is impossible to determine the additional burden that will be required of State agencies as a result of school food authorities developing their own menu planning systems and failing to meet the nutrition standards. As stated earlier, the 1996–1997 school year is the first one in which States have been required to conduct the nutrient analyses so no data is available as to the number of schools failing to meet the standards. Additionally, FNS has no indications as to how many local agencies might choose to develop their own menu planning systems. It is also impossible to determine the additional nutritional risk placed on children in schools that have difficulty meeting the Dietary Guidelines. However, because there is a certain amount of uncertainty regarding the ability of schools to meet the nutritional requirements under innovative systems, FNS acknowledges that nutritional risk exists.

Miscellaneous Monitoring Provisions

Background: The Department is also proposing a number of amendments to the requirements for nutrition monitoring designed to ensure appropriate State agency oversight of all menu planning alternatives and to clarify some existing provisions.

First, the nutrition monitoring provisions pertaining to reviews of the enhanced food-based menu planning option would be extended to reviews of schools using the traditional meal pattern and other reasonable approaches. As part of these reviews, the State agency must conduct a nutrient analysis using the regulatory procedures schools follow for NSMP.

Second, the Department is proposing to redefine the review period for nutrition reviews which is currently the last completed week prior to the review in order to expedite concurrent reviews of the nutrition standards and reviews for compliance with serving reimbursable meals and free/reduced price application requirements as conducted under coordinated review effort (CRE) reviews. The proposal would permit reviewers to conduct the nutrition review for any week prior to the month of review as is allowed in other reviews.

A third proposed provision would clarify that State agencies must conduct at least one review of every menu planning option employed by the school food authority. The proposal also clarifies that State agencies would be required to review only the lunch program unless the school food authority uses a particular menu planning option for breakfast but not for lunch, in which case at least one school's breakfast program would need to be reviewed.

A fourth proposed change would require State agencies to ensure that there are appropriate methods for monitoring compliance with the nutrition standards in schools using approved reasonable approaches. At a minimum, nutrition monitoring in these schools would be required to include a nutrient analysis by the State agency using software approved for NSMP.

Finally, the Department is proposing a minor technical amendment to make the cycle for nutrition reviews consistent with the cycle for administrative reviews under CRE. The cycle for conducting nutrition standard reviews was intended to run concurrently with the CRE cycle so that those States electing to conduct nutrition reviews at the same time as administrative reviews could do so efficiently. While State agencies are not required to conduct nutrition reviews at the same time as administrative reviews, the Department intended to make the two review cycles coincide so that State agencies could avail themselves of this option efficiently. To achieve this goal, therefore, the Department is proposing to establish an initial cycle for nutrition reviews as seven years, from July 1, 1996 through June 30, 2003. Thereafter, review cycles would be five years in length. This expanded cycle would allow State agencies more flexibility during the implementation phase to complete reviews and provide schools with necessary assistance.

Effects of Miscellaneous Monitoring Provisions

Benefits: The rule contains minor provisions which provide State agencies with greater flexibility in scheduling of nutrition reviews. The rule allows States to conduct the nutrient analysis based on one week in the month prior to the month of review. Current regulations require that the week chosen for analysis be the last completed week prior to review. Allowing the State agency to choose a week in any month prior to the month of review allows the States to coordinate their nutrition review with the CFE administrative reviews.

The rule proposes to alter the nutrition review cycles so that States wishing to conduct their nutrition reviews at the same time as their CRE administrative reviews will be able to do so. The June 13, 1995 final rule established a five-year cycle for reviews of nutrition compliance. The regulation stipulated that the first five-year cycle could begin as early as July 1, 1996 or as late as July 1, 1998. As a result, the first cycle could end as soon as June 30, 2001, or as late as June 30, 2003, depending upon implementation. The current CRE cycle ends on June 30, 1998 and the following cycle will end June 30, 2003. So that the two cycles might coincide, the rule proposes to establish an initial cycle for nutrition reviews of seven years, from July 1, 1996 to June 30, 2003. The expanded cycle would allow State agencies more flexibility during the implementation phase to complete reviews and provide schools with necessary assistance.

Costs: When the June 13, 1995 final rule established reviews of nutrition compliance, the Department did not anticipate that the traditional meal pattern would continue to be an option after June 30, 1998, so no provision was made requiring a nutrient analysis for schools using this meal pattern. The proposed rule extends nutrition monitoring provisions pertaining to reviews of the enhanced food-based menu planning option to reviews of schools using the traditional meal pattern. The requirement that a nutritional analysis be conducted on schools using the traditional meal plan does not place any additional burden on State agencies.

The rule requires that State agencies must conduct at least one review of every menu planning option employed by the school food authority. This requirement could result in more schools being reviewed for nutrition compliance than would be required to be reviewed under CRE. For each school it takes one staff person approximately one and a half days to complete a CRE review. This would come at the approximate cost of $216 for

each additional school.[2]. The Department believes this coverage is necessary to ensure that the school food authority is employing all menu planning systems correctly. The only way for the State agency to identify problems and provide technical assistance is to examine the school food authorities experience with all systems. It is impossible to determine how many more schools State agencies will have to review for nutrition compliance than would be required for CRE as the Department has no data on how many school food authorities use multiple menu planning systems.

Other Effects of the Proposed Regulation

Effects of Rule on NSLP Participation

The provisions of this rule may have a small effect on participation in the National School Lunch Program. The provisions of this rule may have the effect of making meals more appealing which may increase participation. Implementation of the rule is not expected to increase meal prices or decrease meal acceptability. The rule allows schools to continue to use the current meal pattern. Additionally, school food authorities and States are now able to develop menu plans that they feel would be even more appealing to their student population than the menu plans prescribed by the Department.

Effects of Rule on Program Costs

The provisions in this proposed rule will provide increased flexibility to State or local program operators but have no budgetary impact.

Effects on Small Entities

This proposal will not have significant economic impact on a substantial number of small entities. This proposal does not add any new requirements and there are no required additional costs. School food authorities and schools may experience some positive effects from this proposed rule as noted previously.

Summary of the Effects of the Proposed Rule

The proposed rule provides school food authorities and State agencies with increased choices and flexibility in selecting a menu planning system by permanently reinstating the meal pattern in effect during the 1994–1995 school year and providing guidelines for approval of other reasonable approach alternatives that schools may develop.

The proposed rule contains minor monitoring provisions. It extends monitoring provisions pertaining to reviews of the enhanced food-based menu planning option to reviews of schools using the traditional meal pattern. It provides State agencies with greater flexibility in selection of the week to be reviewed for nutrient compliance. Further, the proposed rule alters the nutrition review cycle so that it coincides with the CRE administrative review cycle. This will allow State agencies to more easily conduct nutrient reviews at the same time as administrative reviews.

The proposed rule is not expected to have any impact on program participation, nor is the rule expected to have any budgetary impact. The rule will not have a significant economic impact on a substantial number of small entities.

5. Public Comments: This proposal will provide a 180-day comment period.

List of Subjects

7 CFR Part 210

Commodity School Program, Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 220

Food assistance programs, Grant programs—education, Grant programs—health, Infants and children, Nutrition, Reporting and recordkeeping requirements, School breakfast and lunch programs.

Accordingly, 7 CFR Parts 210 and 220 are proposed to be amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for 7 CFR Part 210 continues to read as follows:

Authority: 42 U.S.C. 1751–1760, 1779.

§ 210.2 [Amended]

2. In § 210.2:

a. the definition of "*Food component*" is amended by removing the words "or one of the four food groups which compose the reimbursable school lunch, i.e., meat or meat alternate, milk, bread or bread alternate, and vegetable/fruit under § 210.10a";

b. the definition of "*Food item*" is amended by removing the words "or one of the five required foods that compose the reimbursable school lunch, i.e., meat or meat alternate, milk, bread or bread alternate, and two (2) servings of vegetables, fruits, or a combination of both for the purposes of § 210.10a"; and

c. the definition of "*Lunch*" is amended by removing the words "§ 210.10(k)(2) or the school lunch pattern for specified age/grade groups of children as designated in § 210.10a" and adding in their place the words "§ 210.10(k)(1) or § 210.10(k)(2), whichever is applicable".

§ 210.4 [Amended]

3. In § 210.4, paragraph (b)(3) introductory text is amended by removing the words "§ 210.10(n)(1) or § 210.10a(j)(1), whichever is applicable" and adding in their place a reference to "§ 210.10 (o)(1)".

§ 210.7 [Amended]

4. In § 210.7:

a. paragraph (c)(1)(v) is amended by removing the words "or § 210.10a(b), whichever is applicable,"; and

b. paragraph (d) is amended by removing the words "§ 210.10(n)(1) or § 210.10a(j)(1), whichever is applicable" and adding in their place a reference to "§ 210.10(o)(1)".

§ 210.9 [Amended]

5. In § 210.9:

a. paragraph (b)(5) is amended by removing the words "or 210.10a, whichever is applicable";

b. paragraph (c) introductory text is amended by removing the words "§ 210.10(n)(1) or § 210.10a(j)(1), whichever is applicable" and adding in their place a reference to "§ 210.10(o)(1)"; and

c. paragraph (c)(1) is amended by removing the words "or § 210.10a, whichever is applicable".

6. In § 210.10:

a. paragraph (a)(1) is amended by revising the first sentence and by adding a new sentence at the end of the paragraph;

b. the second sentence of paragraph (a)(3) is amended by removing the word "or" and adding in its place a comma and by adding the words "or those developed under paragraph (l)" after the reference to "paragraph (i)(1)"; the third sentence of paragraph (a)(3) is amended by removing the third occurrence of the word "or" and adding in its place a comma, and adding the words "or those developed under paragraph (l)" after the reference to "paragraph (i)(1)";

c. paragraph (b)(1) is amended by making the word "paragraph" plural, by removing the second occurrence of the word "or" and adding in its place a comma and by adding the words "or (l)" after the reference to "(i)(1)";

d. paragraph (b)(2) is amended by removing the second occurrence of the word "or" and adding in its place a comma, and by adding the words "or (l)" after the reference to "(i)(1)";

[2] Cost calculated assuming 12 hours to review each school at a wage rate of $18 an hour.

e. paragraph (b)(3) is revised;

f. paragraph (b)(4) introductory text is amended by removing the reference to "1990" and adding in its place a reference to "1995";

g. the first sentence of paragraph (b)(5) is revised;

h. the table in paragraph (c)(1) is revised;

i. the table in paragraph (c)(2) is revised;

j. paragraph (d) is revised;

k. the heading of paragraph (i)(4) and paragraph (i)(9) are amended by removing the words "National Nutrient Database" and adding in their place the words "Child Nutrition Database";

l. paragraphs (i)(4) and (i)(8) are amended by removing the words "National Nutrient Database for the Child Nutrition Programs" wherever they appear and by adding the words "Child Nutrition Database" in their place;

m. the heading of paragraph (k) is revised and introductory text is added;

n. paragraph (k)(1) is revised;

o. the heading of paragraph (k)(2) and the introductory text before the chart are revised;

p. the first two sentences of paragraph (k)(4) are redesignated as paragraph (k)(4)(i) and the last sentence of paragraph (k)(4) is redesignated as paragraph (k)(4)(ii) and is revised;

q. paragraph (k)(5) is amended by adding a new paragraph (k)(5)(iii);

r. paragraph (k)(5)(ii) is amended by adding two new sentences between the second and third sentences;

s. paragraphs (l) through (o) are redesignated as paragraphs (m) through (p), respectively, and a new paragraph (l) is added;

t. newly redesignated paragraph (o)(3)(iv) is amended by removing the reference to "(n)(3)" and adding in its place a reference to "(o)(3)"; and

u. in newly redesignated paragraph (p), the reference to "1990" is removed and a reference to "1995" is added in its place.

The additions and revisions read as follows:

§ 210.10 Nutrition standards for lunches and menu planning methods.

(a) *General requirements for school lunches.* (1) In order to qualify for reimbursement, all lunches served to children age 2 and older, as offered by participating schools, shall, at a minimum, meet the nutrition standards provided in paragraph (b) of this section and the appropriate levels of calories and nutrients provided in: paragraph (c) or paragraph (i)(1) of this section for nutrient standard menu planning and assisted nutrient standard menu planning; paragraph (d)(1) of this section for the traditional food-based menu planning alternative; paragraph (d)(2) of this section for the enhanced food-based menu planning alternative; or as developed in accordance with the provisions in paragraph (l) of this section for other menu planning alternatives, whichever is applicable. * * * In addition, those school food authorities that use menu planning approaches as allowed under paragraph (l) of this section shall ensure that sufficient quantities of food are planned and produced to meet the provisions in paragraph (b) of this section and any minimum standards for food/menu items and quantities.

* * * * *

(b) *Nutrition standards for reimbursable lunches.* * * *

(3) The applicable recommendations of the 1995 Dietary Guidelines for Americans which are:

(i) Eat a variety of foods;

(ii) Limit total fat to 30 percent of calories;

(iii) Limit saturated fat to less than 10 percent of calories;

(iv) Choose a diet low in cholesterol;

(v) Choose a diet with plenty of grain products, vegetables, and fruits;

(vi) Choose a diet moderate in salt and sodium; and

(vii) Choose a diet moderate in sugars.

* * * * *

(5) School food authorities have several alternatives for menu planning in order to meet the nutrition standards of this paragraph and the applicable nutrient and calorie levels: nutrient standard menu planning as provided for in paragraph (i) of this section; assisted nutrient standard menu planning as provided for in paragraph (j) of this section; traditional food-based menu planning as provided for in paragraph (d)(1) of this section; enhanced food-based menu planning as provided for in paragraph (d)(2) of this section; or other menu planning approaches as provided for in paragraph (l) of this section.

* * *

(c) *Nutrient levels for school lunches/ nutrient analysis.*

(1) * * *

MINIMUM REQUIRMENTS FOR NUTRIENT LEVELS FOR SCHOOL LUNCHES NUTRIENT ANALYSIS ALTERNATIVES (SCHOOL WEEK AVERAGES)				
	Minimum requirements			Optional
Nutrients and energy allowances	Preschool	Grades K-6	Grades 7-12	Grades K-3
Energy allowances (calories)	517	664	825	633
Total fat (as a percentage of actual total food energy	[1]	[2]	[2]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1]	[3]	[3]	[3]
RDA for protein (g)	7	10	16	9
RDA for calcium (mg)	267	286	400	267
RDA for Iron (mg)	3.3	3.5	4.5	3.3
RDA for Vitamin A (RE)	150	224	300	200
RDA for Vitamin C (mg)	14	15	18	15

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THA1, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."
[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK
[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

(2) * * *

OPTIONAL NUTRIENT LEVELS FOR SCHOOL LUNCHES NUTRIENT ANALYSIS ALTERNATIVES (SCHOOL WEEK AVERAGES)				
Nutrients and energy allowances	Ages 3-6	ages 7-10	Ages 11-13	Ages 14 and above
Energy allowances (calories)	558	667	783	846
Total fat (as a percentage of actual total food energy	[1,2]	[2]	[2]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1,3]	[3]	[3]	[3]
RDA for protein (g)	7.3	9.3	15.0	16.7
RDA for calcium (mg)	267	267	400	400
RDA for iron (mg)	3.3	3.3	4.5	4.5
RDA for Vitamin A (RE)	158	233	300	300
Vitamin C (mg)	14.6	15.0	16.7	19.2

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THAT, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."
[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK
[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

(d) *Minimum nutrient levels for school lunches/food-based menu planning alternatives.*

(1) *Traditional food-based menu planning alternative.* For the purposes of the traditional food-based menu planning alternative, as provided for in paragraph (k)(1) of this section, the following chart provides the minimum levels, by grade group, for calorie and nutrient levels for school lunches offered over a school week:

MINIMUM REQUIRMENTS FOR NUTRIENT LEVELS FOR SCHOOL LUNCHES TRADITIONAL FOOD-BASED ALTERNATIVE (SCHOOL WEEK AVERAGES)				
	MINIMUM REQUIREMENTS			OPTIONAL
NUTRIENTS AND ENERGY ALLOWANCES	PRESCHOOL	GRADES K-3 AGES 5-8	GRADES 4-12 AGES 9 AND OLDER	GRADES 7-12 AGES 12 AND OLDER
Energy allowances (calories)	517	633	785	825
Total fat (as a percentage of actual total food energy	[1]	[2]	[2]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1]	[3]	[3]	[3]
RDA for protein (g)	7	9	15	16
RDA for calcium (mg)	267	267	370	400
RDA for Iron (mg)	3.3	3.3	4.2	4.5
RDA for Vitamin A (RE)	150	200	285	300
RDA for Vitamin C (mg)	14	15	17	18

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THAT, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."

[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK

[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

(2) *Enhanced food-based menu planning alternative.* For the purposes of the enhanced food-based menu planning alternative, as provided for in paragraph (k)(2) of this section, the following chart provides the miniumn levels, by grade group, for calorie and nutrient levels for school lunches over a school week:

MINIMUM REQUIRMENTS FOR NUTRIENT LEVELS FOR SCHOOL LUNCHES ENHANCED FOOD -BASED ALTERNATIVE (SCHOOL WEEK AVERAGES)				
	MINIMUM REQUIREMENTS			OPTIONAL
NUTRIENTS AND ENERGY ALLOWANCES	PRESCHOOL	GRADES K-6	GRADES 7-12	GRADES K-3
Energy allowances (calories)	517	664	825	633
Total fat (as a percentage of actual total food energy	[1]	[2]	[2]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1]	[3]	[3]	[3]
RDA for protein (g)	7	10	16	9
RDA for calcium (mg)	267	286	400	267
RDA for Iron (mg)	3.3	3.5	4.5	3.3
RDA for Vitamin A (RE)	150	224	300	200
RDA for Vitamin C (mg)	14	15	18	15

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THAT, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."

[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK

[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

* * * * * *

(k) *Food-based menu planning alternatives.* School food authorities may choose to plan menus using either the traditional or enhanced food-based menu planning alternatives. Under these alternatives, specific food components shall be offered as provided in either paragraphs (k)(1) or (k)(2) of this section, whichever is applicable, and in paragraphs (k)(3) through (k)(5) of this section, as appropriate.

(1) *Minimum quantities-traditional food-based menu planning alternative.* (i) At a minimum, school food authorities choosing to plan menus using the traditional food-based menu planning alternative shall offer all five required food items in the quantities provided in the following chart:

TRADITIONAL FOOD-BASED MENU PLANNING ALTERNATIVE					
	MINIMUM QUANTITIES				RECOMMENDED QUANTITIES
FOOD COMPONENTS AND FOOD ITEMS	GROUP I AGES 1-2 PRESCHOOL	GROUP II AGES 3-4 PRESCHOOL	GROUP III, AGES 5-8 K-3	GROUP IV, AGES 9 AND OLDER GRADES 4-12	GROUP V 12 YEARS AND OLDER GRADES 7-12
Milk (as a beverage)	6 fl. oz.	6 fl. oz.	8 fl. Oz.	8 fl. oz.	8 fl. oz.
Meat or Meat Alternate (quantity of the edible portion as served):					
Lean meat, poultry, or fish	1 oz.	1½ oz.	1½ oz.	2 oz.	3 oz.
Cheese	1 oz.	1½ oz.	1½ oz.	2 oz.	3 oz.
Large egg	½	¾	¾	1	1½
Cooked dry beans or peas	¼ cup	3/8 cup	3/8 cup	½ cup	¾ cup
Peanut butter or other nut or seed butters	2 Tbs.	3 Tbs.	3 Tbs.	4 Tbs.	6 Tbs.
The following may be used to meet no more than 50% of the requirement and must be used in combination with any of the above:					
Peanuts, soynuts, tree nuts, or seeds, as listed in program guidance, or an equivalent quantity of any combination of the above meat/meat alternate (1 oz. of nuts/seeds=1 oz. of cooked lean meat, poultry, or fish)	½oz.=50%	¾ oz.=50%	¾ oz.=50%	1 oz.=50%	1½ oz.=50%
Yogurt, plain or flavored, unsweetened or sweetened	4 oz. or ½ cup	6 oz. or ¾ cup	6 oz. or ¾ cup	8 oz. or 1 cup	12 oz. or 1 ½ cup
Vegetable or Fruit: 2 or more servings of vegetables, fruits or both	½ cup	½ cup	½ cup	¾ cup	¾ cup
Grains/Breads: (Servings per week): Must be enriched or whole grain or made from flour which may include bran and/or germ. A serving is a slice of bread or an equivalent serving of biscuits, rolls, etc., or ½ cup of cooked rice, macaroni, noodles, other pasta products or cereal grains	5 per week – minimum of ½ day	8 per week – minimum of 1 per day	8 per week –minimum of 1 per day	8 per week – minimum of 1 per day	10 per week – minimum of 1 per day

(ii) Schools able to provide the appropriate quantities of food to children of each age/grade group should do so. Schools that cannot serve children of each age or grade level shall provide all school age children Group IV portions as specified in the table presented in this paragraph. Schools serving lunches to children of more than one age or grade level shall plan and produce sufficient quantities of food to provide Groups I–IV no less than the amounts specified for those children in the table presented in this paragraph, and sufficient quantities of food to provide Group V no less than the specified amounts for Group IV. It is recommended that such schools plan and produce sufficient quantities of food to provide Group V children the larger amounts specified in the table. Schools that provide increased portion sizes for Group V may comply with children's requests for smaller portion sizes of the food items; however, schools shall plan and produce sufficient quantities of food to at least provide the serving sizes required for Group IV.

(2) *Minimum quantities-enhanced food-based menu planning alternative.* At a minimum, school food authorities choosing to plan menus using the enhanced food-based menu planning alternative shall offer all five required

food items in the quantities provided in the following chart:

* * * * *

(4) *Vegetables and fruits.* * * *

(ii) Under the enhanced food-based menu planning alternative, the requirement for this component is based on minimum daily servings *plus* an additional one-half cup in any combination over a five day period for children in kindergarten through grade six.

(5) *Grains/breads.* * * *

(ii) * * * Schools serving lunch 6 or 7 days per week should increase the weekly quantity by approximately 20 percent (1/5) for each additional day. When schools operate less than 5 days per week, they may decrease the weekly quantity by approximately 20 percent (1/5) for each day less than five.* * *

(iii) Under the traditional food-based menu planning alternative, schools shall serve daily at least one-half serving of bread or bread alternate to children in Group I and at least one serving to children in Groups II-V. Schools which serve lunch at least 5 days a week shall serve a total of at least five servings of bread or bread alternate to children in Group I and eight servings per week to children in Groups II-V.

* * * * *

(l) *Other menu planning alternatives.*

(1) *Modifications.* School food authorities may adopt any or all of the following menu planning alternatives. State agencies may require prior approval for adopting the alternatives, may establish guidelines for their adoption, or may permit their adoption without prior approval.

(i) Under the traditional or enhanced food-based menu planning alternatives provided for in paragraph (k) of this section, the meat/meat alternate component may be provided as a weekly total with a one ounce (or its equivalent for certain meat alternates) minimum daily amount, except that this provision does not apply if the minimum serving of meat/meat alternate is less than one ounce; or

(ii) Under the traditional or enhanced food-based menu planning alternatives, if only one age or grade is outside the established levels, schools may use the levels for the majority of children for both portions and the Recommended Dietary Allowances and lunchtime energy allowances.

(2) *Major changes or new alternatives: use and approval.* Subject to the applicable requirements of paragraph (l)(3) of this section, school food authorities or State agencies may modify one of the menu planning alternatives established in paragraphs (i) through (k) of this section or may develop their own menu planning approach. Any such alternate menu planning approaches shall be in writing for review and monitoring purposes, as applicable. No formal plan is required; the written alternate approach may be in the form of guidance, protocol, or the like. The alternate approach shall address how the provisions in paragraph (l)(3) shall be met.

(i) Any school food authority-developed menu planning approach must have prior State agency review and approval.

(ii) Except as noted in paragraph (l)(2)(iii), any State agency-developed menu planning approach must have prior FNS approval.

(iii) Any State agency-developed menu planning approach is not subject to FNS review if:

(A) Five or more school food authorities within the State use the approach;

(B) The State agency maintains on-going oversight of the operation and evaluation of the alternative menu planning approach including making adjustments to the approach's policies and procedures, as necessary, to ensure compliance with the applicable provisions in paragraph (l)(3) of this section as needed; and

(C) The State agency issues an announcement notifying the public concerning the alternate menu planning approach prior to the implementation of the approach by any school food authority; such announcement shall be issued in a manner consistent with State procedures for public notification.

(3) *Major changes or new alternatives: required elements.* The following requirements shall be met by any alternate menu planning approach:

(i) The service of fluid milk, as provided in paragraph (m) of this section;

(ii) Offer versus serve for senior high students. To the extent possible, the offer versus serve procedures for an alternate approach shall follow the procedures in paragraphs (i)(2)(ii) and (k)(6) of this section, as appropriate. Any alternate approach which deviates from the provisions in paragraphs (i)(2)(ii) or (k)(6) of this section shall, at a minimum, indicate what age/grade groups are included in offer versus serve and establish the number and type of items, (and, if applicable, the quantities for the items) that constitute a reimbursable meal under offer versus serve. In addition, the alternate offer versus serve procedures shall include an explanation of how such procedures will reduce plate waste and provide a reasonable level of calories and nutrients for the meal as taken;

(iii) The nutrition standards in paragraphs (b)(1) through (b)(4) of this section. Any alternate approach shall indicate the age/grade groups to be served and how such approach is designed to meet these requirements for those age/grade groups;

(iv) The requirements for competitive foods in § 210.11 and Appendix B to this part.

(v) For alternate food-based menu planning approaches, the requirements for crediting food items and products provided for in paragraphs (k)(3) through (k)(5) and paragraph (m) of this section, in the appendices to this part, and in instructions and guidance issued by FNS;

(vi) Identification of a reimbursable meal at the point of service. To the extent possible, the procedures provided in paragraph (i)(2)(i) of this section for nutrient standard or assisted nutrient standard menu planning alternatives or for food-based menu planning alternatives provided in paragraph (k) of this section shall be followed. In addition, any instructions or guidance issued by FNS that further defines the elements of a reimbursable meal shall be followed when using the existing regulatory provisions. Any alternate approach that deviates from the provisions in paragraph (i)(2)(i) or paragraph (k) of this section shall indicate what constitutes a reimbursable meal, including the number and type of items (and, if applicable, the quantities for the items) which comprise the meal, and how a reimbursable meal is to be identified at the point of service.

(vii) An explanation of how the alternate approach can be monitored under the applicable provisions of § 210.18 and § 210.19, including a description of the records that will be maintained to document compliance with the program's administrative and nutrition requirements. However, to the extent that the procedures under § 210.19 are inappropriate for monitoring the alternate approach, the alternate approach shall include a description of review procedures which will enable the State agency to assess compliance with the nutrition standards in paragraphs (b)(1) through (b)(4) of this section; and

(viii) the requirements for weighted analysis and for approved software for nutrient standard menu planning as required by paragraphs (i)(4) and (i)(5) of this section unless a State agency-developed approach meets the criteria in paragraph (l)(2)(iii) of this section.

* * * * *

§ 210.10a [Removed]

7. Section 210.10a is removed.

§ 210.15 [Amended]

8. In § 210.15:

a. paragraph (b)(2) is amended by removing the words "menu records as required under § 210.10a and production and"; and

b. paragraph (b)(3) is amended by removing the words "or § 210.10a(b), whichever is applicable".

§ 210.16 [Amended]

9. In § 210.16, paragraph (b)(1) is amended by removing the words "or § 210.10a, whichever is applicable," wherever they appear.

§ 210.18 [Amended]

10. In § 210.18:

a. paragraph (b)(2)(ii) is revised;

b. the heading of paragraph (g)(2) introductory text is amended by removing the words "food items/components as required by Program regulations" and adding in their place the words "meal elements (food items/components, menu items or other items, as applicable) as required under § 210.10";

c. Paragraph (g)(2)(i) is amended by removing the words "required food items/components" and adding in their place the words "meal elements (food items/components, menu items or other items, as applicable) as required under § 210.10";

d. Paragraph (g)(2)(ii) is amended by removing the words "the required number of food items/components" and adding in their place the words "the number of meal elements (food items/components, menu items or other items, as applicable) as required under § 210.10";

e. Paragraph (g)(2)(iii) is amended by removing the words "required food items/components" and adding in their place the words "meal elements (food items/components, menu items or other items, as applicable) as required under § 210.10";

f. paragraph (h)(2) is amended by removing the words "food items/components in the quantities required under § 210.10 or § 210.10a, in whichever is applicable" and adding in their place the words "meal elements (food items/components, menu items or other items, as applicable) as required under § 210.10"; and

g. paragraph (i)(3)(ii) is amended by removing the words "required food items/components" and adding in their place the words "meal elements (food items/components, menu items or other items, as applicable) as required under § 210.10".

The revision reads as follows:

§ 210.18. Administrative reviews.

* * * * *

(b) *Definitions.* * * *

(2) * * *

(ii) Performance Standard 2—Meal Elements. Lunches claimed for reimbursement within the school food authority contain meal elements (food items/components, menu items or other items, as applicable) as required under § 210.10.

* * * * *

11. In § 210.19:

a. the first sentence of paragraph (a)(1) introductory text is amended by removing the reference to "§ 210.10(o)" and by adding in its place a reference to "§ 210.10(p)", and by removing the words "or (d)," and adding in their place the words ", (d), or (i)(1) or the procedures developed under § 210.10(l),";

b. the second sentence of paragraph (a)(1) introductory text is amended by removing the words "At a minimum, these evaluations shall be conducted once every 5 years and" and adding in their place the words "These evaluations";

c. paragraph (a)(1) introductory text is further amended by adding five sentences at the end;

d. paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), and (a)(1)(iv) are redesignated as paragraphs (a)(1)(ii), (a)(1)(iii), (a)(1)(v), and (a)(1)(vi), respectively, and new paragraphs (a)(1)(i) and (a)(1)(iv) are added;

e. the first sentence of newly redesignated paragraph (a)(1)(ii) is revised;

f. newly redesignated paragraph (a)(1)(iii) introductory text is revised;

g. paragraph (a)(3) is amended by removing the words "or § 210.10a, whichever is applicable,"; and

h. paragraph (c)(6)(i) is amended by removing the words "food item required under the meal pattern in § 210.10a or the food-based menu planning alternative in § 210.10(k), whichever is applicable" and adding in their place the words "meal element (food item/component, menu item or other items, as applicable) as required under § 210.10".

The additions and revisions read as follows:

§ 210.19 Additional responsibilities.

(a) *General Program management.*

* * *

(1) *Compliance with nutrition standards.* * * At a minimum, the State agency shall review at least one school for each type of menu planning alternative used in the school food authority. Review activity may be confined to the National School Lunch Program unless a menu planning alternative is used exclusively in the School Breakfast Program. The review must examine compliance with the nutrition standards in § 210.10(b) and § 210.10(c), (d), (i)(1), or (l), and § 220.8 (a), (c), (e)(1), or (h), as appropriate. State agencies are encouraged to review the School Breakfast Program as well if the school food authority requires technical assistance from the State agency to meet the nutrition standards or if corrective action is needed. Such review shall determine compliance with the appropriate requirements in § 220.8 and may be done at the time of the initial review or as part of a follow-up to assess compliance with the nutrition standards.

(i) At a minimum, State agencies shall conduct evaluations of compliance with the nutrition standards in § 210.10(b) and § 210.10(c), (d), (i)(1), or (l), as appropriate, at least once during each 5-year review cycle provided that each school food authority is evaluated at least once every 6 years, except that the first cycle shall begin July 1, 1996, and shall end on June 30, 2003. The compliance evaluation for the nutrition standards shall be conducted on the menu for any week of the current school year prior to the month in which such evaluation is conducted. The week selected must continue to represent the current menu planning system.

(ii) For school food authorities choosing the nutrient standard or assisted nutrient standard menu planning alternatives provided in § 210.10(i), § 210.10(j), or § 220.8(e), or § 220.8(f), or developed under the procedures in § 210.10(l) or § 220.8(h), the State agency shall assess the nutrient analysis to determine if the school food authority is properly applying the methodology in § 220.8(e), or § 220.8(f), or developed under the procedures in § 210.10(l) or § 220.8(h), as appropriate.* * *

(iii) For school food authorities choosing the food-based menu planning alternatives provided in § 210.10(k) or § 220.8(g) or developed under the procedures in § 210.10(l) or § 220.8(h), the State agency shall determine if the nutrition standards set forth in § 210.10(b) and § 210.10(d) are met. The State agency shall conduct a nutrient analysis in accordance with the procedures in § 210.10(i) or § 220.8(e), as appropriate, except that the State agency may:

* * * * *

(iv) For school food authorities following an alternate approach as

provided under § 210.10(l) or § 220.8(h) that does not allow for use of the monitoring procedures in paragraphs (a)(1)(ii) or (a)(1)(iii), the State agency shall monitor compliance following the procedures developed in accordance with § 210.10(l) or § 220.8(h), whichever is appropriate.

* * * * *

Appendix A [Amended]

12. In Appendix A to Part 210—Alternate Foods for Meals:

a. under Enriched Macaroni Products with Fortified Protein, paragraph 1.(a) is amended by removing the words "or § 210.10a, whichever is applicable,";

b. under Vegetable Protein Products, paragraph 1. introductory text is amended by removing the words "or § 210.10a, whichever is applicable";

c. under Vegetable Protein Products, paragraph 1.(d) is amended by removing the words "or § 210.10a, whichever is applicable";

d. under Vegetable Protein Products, paragraph 1.(e) is amended by removing the words "or § 210.10a, whichever is applicable";

e. under Vegetable Protein Products, paragraph 3. is amended by removing the words "or § 210.10a, whichever is applicable".

Appendix C [Amended]

13. In Appendix C to Part 210-Child Nutrition Labeling Program:

a. paragraph 2.(a) is amended by removing the words "or § 210.10a, whichever is applicable";

b. paragraph 3.(c)(2) is amended by removing the words "or § 210.10a, whichever is applicable" and by removing the words "or § 220.8a, whichever is applicable";

c. paragraph 6. introductory text is amended by removing the words "or § 210.10a, whichever is applicable" and by removing the words "or § 220.8a, whichever is applicable".

PART 220—SCHOOL BREAKFAST PROGRAM

1. The authority citation continues to read as follows:

Authority: 42 U.S.C. 1773, 1779, unless otherwise noted.

§ 220.2 [Amended]

2. In § 220.2:

a. paragraph (b) is amended by removing the words "or § 220.8a, whichever is applicable,"; and

b. paragraph (t) is amended by removing the words "or § 220.8, whichever is applicable,".

§ 220.7 [Amended]

3. In § 220.7, paragraph (e)(2) is amended by removing the words "or § 220.8a, whichever is applicable,".

4. In § 220.8:

a. paragraph (a)(1) is amended by removing the second occurrence of the word "or" and adding in its place a comma and by adding the words ", or (h)" after the reference to "(e)(1)";

b. paragraph (a)(2) is amended by removing the second occurrence of the word "or" and adding in its place the words "or (h)" after the reference to "(e)(1)";

c. paragraph (a)(3) is revised;

d. paragraph (a)(4) is amended by removing the reference to "1990" and adding in its place a reference to "1995";

e. the first sentence of paragraph (a)(5) is revised;

f. the first sentence of paragraph (a)(6) is amended by removing the word "or" and adding in its place a comma and by adding the words "or those developed under paragraph (h)" after the reference to "paragraph (e)(1)" and the second sentence of paragraph (a)(6) is amended by removing the third occurrence of the word "or" and adding in its place a comma and by adding the words "or those developed under paragraph (h)" after the reference to "paragraph (e)(1)";

g. the table in paragraph (b)(1) is revised;

h. the table in paragraph (b)(2) is revised;

i. paragraph (c) is revised;

j. the heading of paragraph (e)(4) and paragraph (e)(9) are amended by removing the words "National Nutrient Database" and adding in their place the words "Child Nutrition Database";

k. paragraphs (e)(4) and (e)(8) are amended by removing the words "National Nutrient Database for the Child Nutrition Programs" wherever they appear and by adding the words "Child Nutrition Database" in their place;

l. the heading of paragraph (g) is revised and introductory text is added;

m. the introductory text of paragraph (g)(1) is amended by removing the words "in the table in paragraph (g)(2) of this section" and adding in their place the words "either in the table in paragraph (g)(2) or (g)(3) of this section, whichever is applicable";

n. paragraph (g)(2) is revised;

o. paragraphs (h) through (m) are redesignated as paragraphs (i) through (n), respectively, and a new paragraph (h) is added; and

p. in newly redesignated paragraph (n), the reference to "1990" is removed and a reference to "1995" is added in its place.

The additions and revisions are as follows:

§ 220.8 Nutrition standards for breakfast and menu planning alternatives.

(a) *Nutrition standards for breakfasts for children age 2 and over.* * * *

(3) The applicable recommendations of the 1995 Dietary Guidelines for Americans which are: eat a variety of foods; limit total fat to 30 percent of calories; limit saturated fat to less than 10 percent of calories; choose a diet low in cholesterol; choose a diet with plenty of grain products, vegetables, and fruits; choose a diet moderate in salt and sodium; and choose a diet moderate in sugars.

* * * * *

(5) School food authorities have several alternatives for menu planning in order to meet the requirements of this paragraph including the appropriate nutrient and calorie levels: nutrient standard menu planning as provided for in paragraph (e) of this section; assisted nutrient standard menu planning as provided for in paragraph (f) of this section; traditional food-based menu planning as provided for in paragraph (g)(1) of this section; enhanced food-based menu planning as provided for in paragraph (g)(2) of this section; or other menu planning approaches as provided for in paragraph (h) of this section.

* * *

* * * * *

(b) *Nutrient levels/nutrient analysis.*

(1) * * *

MINIMUM REQUIRMENTS FOR NUTRIENT LEVELS FOR SCHOOL BREAKFASTS NUTRIENT ANALYSIS ALTERNATIVES (SCHOOL WEEK AVERAGES)			
	MINIMUM REQUIREMENTS		OPTIONAL
NUTRIENTS AND ENERGY ALLOWANCES	PRESCHOOL	GRADES K-12	GRADES 7-12
Energy allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy	[1]	[2]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1]	[3]	[3]
RDA for protein (g)	5	10	12
RDA for calcium (mg)	200	257	300
RDA for Iron (mg)	2.5	3.0	3.4
RDA for Vitamin A (RE)	113	197	225
RDA for Vitamin C (mg)	11	13	14

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THAT, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."
[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK
[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

(2) * * *

OPTIONAL NUTRIENT LEVELS FOR SCHOOL BREAKFASTS NUTRIENT ANALYSIS ALTERNATIVES (SCHOOL WEEK AVERAGES)				
NUTRIENTS AND ENERGY ALLOWANCES	AGES 3-6	AGES 7-10	AGES 11-13	AGES 14 AND ABOVE
Energy allowances (calories)	419	500	588	625
Total fat (as a percentage of actual total food energy	[1,2]	[2]	[2]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1,3]	[3]	[3]	[3]
RDA for protein (g)	5.50	7.00	11.25	12.50
RDA for calcium (mg)	200	200	300	300
RDA for iron (mg)	2.5	2.5	3.4	3.4
RDA for Vitamin A (RE)	119	175	225	225
Vitamin C (mg)	11.00	11.25	12.50	14.40

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THAT, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."
[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK
[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

(c) *Minimum nutrient levels for school breakfasts/food-based menu planning alternatives.* (1) *Traditional food-based menu planning alternative.* For the purposes of the traditional food-based menu planning alternative, as provided for in paragraph (g)(2) of this section, the following chart provides the minimum levels, by grade group, for calorie and nutrient levels for school breakfasts offered over a school week:

MINIMUM REQUIRMENTS FOR NUTRIENT LEVELS FOR SCHOOL BREAKFASTS TRADTIONAL FOOD -BASED ALTERNATIVE (SCHOOL WEEK AVERAGES)			
NUTRIENTS AND ENERGY ALLOWANCES	AGE 2	AGES 3,4,5	GRADES K-12
Energy allowances (calories)	325	388	554
Total fat (as a percentage of actual total food energy	[1]	[1]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1]	[1]	[3]
RDA for protein (g)	4	5	10
RDA for calcium (mg)	200	200	257
RDA for Iron (mg)	2.5	2.5	3.0
RDA for Vitamin A (RE)	100	113	197
RDA for Vitamin C (mg)	10	11	13

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THAT, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."
[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK
[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

(2) *Enhanced food-based menu planning alternative.* For the purposes of the enhanced food-based menu planning alternative, as provided for in paragraph (g)(1) of this section, the following chart provides the minimum levels, by grade group, for calorie and nutrient levels for school breakfasts offered over a school week:

MINIMUM REQUIREMENTS FOR NUTURIENT LEVELS FOR SCHOOL BREAKFAST ENHANCED FOOD-BASED ALTERNATIVE (SCHOOL WEEK AVERAGES)			
	REQUIRED FOR		OPTION FOR
NUTRIENTS AND ENERGY ALLOWANCES	PRESCHOOL	GRADES K-12	GRADES 7-12
Energy allowances (calories)	388	554	618
Total fat (as a percentage of actual total food energy	[1,2]	[2]	[2]
Total saturated fat (as a percentage of actual total food energy)	[1,3]	[3]	[3]
RDA for protein (g)	5	10	12
RDA for calcium (mg)	200	257	300
RDA for iron (mg)	2.5	3.0	3.4
RDA for Vitamin A (RE)	113	197	225
Vitamin C (mg)	11	13	14

[1] THE DIETARY GUIDELINES RECOMMEND THAT AFTER 2 YEARS OF AGE "...CHILDREN SHOULD GRADUALLY ADOPT A DIET THAT, BY ABOUT 5 YEARS OF AGE, CONTAINS NO MORE THAN 30 PERCENT OF CALORIES FROM FAT."
[2] NOT TO EXCEED 30 PERCENT OVER A SCHOOL WEEK
[3] LESS THAN 10 PERCENT OVER A SCHOOL WEEK

* * * * *

(g) *Food-based menu planning alternatives.* School food authorities may choose to plan menus using either the traditional or enhanced food-based menu planning alternatives. Under these alternatives, specific food components shall be offered as provided in either paragraphs (g)(1) or (g)(2) of this section, whichever is applicable, and in paragraphs (g)(3) and (g)(4) of this section, as appropriate.

* * * * *

(2) *Minimum quantities-food-based menu planning alternatives.* (i) At a minimum, schools using the traditional food-based menu planning alternative shall serve breakfasts in the quantities provided in the following chart:

MINIMMUM REQUIREMENTS -TRADITIONAL FOOD-BASED MENU PLANNING ALTERNATIVE			
MEAL COMPONENT	AGES 1-2	AGES 3,4 AND 5	GRADES K—12
MILK (Fluid) (As a beverage, on cereal or both)	4 fl. oz.	6 fl. oz.	8 fl. oz.
JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup
SELECT ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS OR TWO FROM ONE COMPONENT:			
GRAINS/BREADS: one of the following or an equivalent combination:			
Whole-grain or enriched bread	½ slice	½ slice	1 slice
Whole-grain or enriched biscuit, roll, muffin, etc.	½ serving	½ serving	1serving
Whole-grain, enriched or fortified cereal	¼ cup or 1/3 oz.	1/3 cup or ½ oz.	3/4 cup or 1 oz.
MEAT OR MEAT ALTERNATES:			
Meat/poultry or fish	½ oz.	½ oz.	1 oz.
Cheese	½ oz.	½ oz.	1 oz.
Egg (large)	½	½	½
Peanut butter or other nut or seed butters	1 Tbsp.	1 Tbs.	2 Tbs.
Cooked dry beans and peas	2 Tbs.	2 Tbs.	4 Tbs.
Nuts and/or seeds (as listed in program guidance)[1]	½ oz.	½ oz.	1 oz.
Yogurt, plain or flavored, unsweetened or sweetened.	2 oz. or ¼ cup	2 oz. or ¼ cup	4 oz. or ½ cup

[1] No more than 1 ounce of nuts and/or seeds may be served in any one meal.

(ii) At a minimum, schools using the enhanced food-based menu planning alternative shall serve breakfasts in the quantities provided in the following chart:

MINIMUM REQUIREMENTS -ENHANCED FOOD -BASED MENU PLANNING ALTERNATIVE				
MEAL COMPONENT	REQUIRED FOR			OPTION FOR
	AGES 1-2	PRESCHOOL	GRADES K-12	GRADES 7-12
Milk (Fluid) (As a beverage, on cereal or both)	4 fl. oz.	6 fl. oz.	8 fl. oz.	8 fl. oz.
JUICE/FRUIT/VEGETABLE: Fruit and/or vegetable; or full-strength fruit juice or vegetable juice	¼ cup	½ cup	½ cup	½ cup
SELECT ONE SERVING FROM EACH OF THE FOLLOWING COMPONENTS OR TWO FROM ONE COMPONENT:				
GRAINS/BREADS: one of the following or an equivalent combination:				
Whole-grain or enriched bread	½ slice	½ slice	1 slice	1 slice
Whole-grain or enriched biscuit, roll, muffin, etc.	½ serving	½ serving	1 serving	1 serving
Whole-grain, enriched or fortified cereal	¼ cup or 1/3 oz.	1/3 cup or ½ oz.	¾ cup or 1 oz.	¾ cup or 1 oz. Plus an additional serving of one of the Grains/Breads above.
MEAT OR MEAT ALTERNATES:				
Meat/poultry or fish	½ oz.	½ oz.	1 oz.	1 oz.
Cheese	½ oz.	½ oz.	1 oz.	1 oz.
Egg (large)	½	½	½	½
Peanut butter or other nut or seed butters	1 Tbs.	1 Tbs.	2 Tbs.	2 Tbs.
Cooked dry beans and peas	2 Tbs.	2 Tbs.	4 Tbs.	4 Tbs.
Nuts and/or seeds (as listed in program guidance) [1]	½ oz.	½ oz.	1 oz.	1 oz.
Yogurt, plain or flavored, unsweetened or sweetened.	2 oz. or ¼ cup	2 oz. or ¼ cup	4 oz. or ½ cup	4 oz. or ½ cup

[1] No more than 1 ounce of nuts and/or seeds may be served in any one meal.

* * * * *

(h) *Other menu planning alternatives.*

(1) *Modification.* Under the traditional or enhanced food-based menu planning alternatives, school food authorities may, if only one age or grade is outside the established levels, use the levels for the majority of children for both portions and the Recommended Dietary Allowances and breakfast energy allowances. State agencies may require prior approval for adopting this alternative, may establish guidelines for its adoption, or may permit its adoption without prior approval.

(2) *Major changes or new alternatives: use and approval.* Subject to the requirements of paragraphs (h)(3) of this section, school food authorities or State agencies may modify one of the menu planning alternatives established in paragraphs (e) through (g) of this section or may develop their own menu planning approach. Any such alternate menu planning approaches shall be in writing for review and monitoring purposes, as applicable. No formal plan

is required; the written alternate approach may be in the form of guidance, protocol, or the like. The alternate approach shall address how the provisions in paragraph (h)(3) shall be met.

(i) Any school food authority developed menu planning approach shall have prior State agency review and approval.

(ii) Except as noted in paragraph (h)(2)(iii), any State agency-developed menu planning alternative shall have prior FNS approval.

(iii) Any State agency developed alternative is not subject to FNS review if:

(A) Five or more school food authorities within the State use the approach;

(B) The State agency maintains on-going oversight of the operation and evaluation of the alternative menu planning approach including making adjustments to the approach's policies and procedures, as necessary, to ensure compliance with the applicable provisions in paragraph (h)(3) of this section as needed; and

(C) The State agency issues an announcement notifying the public concerning the alternate menu planning approach prior to the implementation of the approach by any school food authority; such announcement shall be issued in a manner consistent with State procedures for public notification.

(3) *Major changes or new alternatives: required elements.* The following requirements shall be met by any alternate menu planning approach:

(i) Service of fluid milk, as provided in paragraph (h)(1) of this section;

(ii) The nutrition standards in paragraphs (a)(1) through (a)(4) of this section. Any alternate approach shall indicate the age/grade groups to be served and how such approach is designed to meet these requirements for those age/grade groups.

(iii) The requirements for competitive foods in § 220.12 and appendix B to this part;

(iv) For alternate food-based menu planning approaches, the requirements for crediting food items and products provided for in paragraphs (g)(2) and (i) of this section, in the appendices to this part, in § 210.10(k)(3) through (k)(5), § 210.10 (m) and in the instructions and guidance issued by FNS;

(v) Identification of a reimbursable meal at the point of service. To the extent possible, the procedures provided in paragraph (e)(2)(i) of this section for nutrient standard or assisted nutrient standard-type menu planning approaches or in paragraph (g) of this section for food-based-type menu planning approaches shall be followed. In addition, any instructions or guidance issued by FNS that further defines the elements of a reimbursable meal shall be followed when using the existing regulatory provisions. Any alternate approach that deviates from the provisions in paragraph (e)(2)(i) or paragraph (g) of this section shall indicate what constitutes a reimbursable meal, including the number and type of items (and, if applicable, the quantities for these items) which comprise the meal, and how a reimbursable meal is to be identified at the point of service. Further, if the alternate approach provides for offer versus serve as allowed under paragraph (e)(2)(ii) of this section for nutrient standard or assisted nutrient standard-type menu planning approaches or in paragraph (g)(3) of this section for food-based-type menu planning approaches, the alternate approach shall follow those provisions to the extent possible. Any alternate approach that deviates from the provisions in paragraph (e)(2)(ii) or (g)(3) of this section shall, at a minimum, indicate what age/grade groups are included in offer versus serve and establish the number and type of items (and, if applicable, the quantities for the items) that constitute a reimbursable meal under offer versus serve. In addition, the alternate offer versus serve procedures shall include an explanation of how such procedures will reduce plate waste and provide a reasonable level of calories and nutrients for the meal *as taken;*

(vi) An explanation of how the alternate approach can be monitored under the applicable provisions of § 210.18 and § 210.19, including a description of the records that will be maintained to document compliance with the program's administrative and nutrition requirements. However, to the extent that the procedures under § 210.19 are inappropriate for monitoring the alternate approach, the alternate approach shall include a description of review procedures which will enable the State agency to assess compliance with the nutrition standards in paragraphs (a)(1) through (a)(4) of this section; and

(vii) The requirements for weighted analysis and for approved software for nutrient standard menu planning as required by paragraphs (e)(4) and (e)(5) of this section unless a State agency developed approach meets the criteria in paragraph (h)(2)(iii) of this section.

* * * * *

§ 220.8a [Removed]

5. Section 220.8a is removed.

§ 220.9 [Amended]

6. In § 220.9, paragraph (a) is amended by removing the words "or § 220.8a, whichever is applicable,".

§ 220.14 [Amended]

7. In § 220.14, paragraph (h) is amended by removing the words "or § 220.8a(a)(1), (b)(2), and (b)(3), whichever is applicable".

Appendix A [Amended]

8. In Appendix A to Part 220—Alternate Foods for Meals, paragraph 1.(a) is amended by removing the words "or 220.8a, whichever is applicable".

Appendix C [Amended]

9. In Appendix C to Part 220—Child Nutrition (CN) Labeling Program:

a. paragraph 2.(a) is amended by removing the words "or 210.10a, whichever is applicable";

b. paragraph 3.(c)(2) is amended by removing the words "or 210.10a, whichever is applicable" and is further amended by removing the words "or 220.8a, whichever is applicable"; and

c. paragraph 6. is amended by removing the words "or 210.10a, whichever is applicable" and is further amended by removing the words "or 220.8a, whichever is applicable".

* * * * *

Dated: April 27, 1998.

Shirley R. Watkins,

Under Secretary for Food, Nutrition and Consumer Services.

Editorial Note: FR Doc. 98–11654 was originally published at 63 FR 24686–24709 in the issue of Monday, May 4, 1998. Due to numerous errors, the document is being republished in its entirety. The comment dates have changed. Also, disregard the correction document published at 63 FR 25569 May 8, 1998.

[FR Doc. 98–11654 Filed 5–1–98; 8:45 am]

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federal register

Friday
May 15, 1998

Part V

The President

Proclamation 7095—Peace Officers Memorial Day and Police Week, 1998

Federal Register
Vol. 63, No. 94
Friday, May 15, 1998

Presidential Documents

Title 3—

The President

Proclamation 7095 of May 12, 1998

Peace Officers Memorial Day and Police Week, 1998

By the President of the United States of America

A Proclamation

This week a grateful Nation pauses to honor the more than half a million dedicated law enforcement officers across our country who put their lives on the line each day to protect us. These courageous and dedicated men and women daily wage the timeless battle for right over wrong, peace over conflict, and the rule of law over anarchy.

We ask a great deal of our Federal, State, and local police officers. We ask them to stand between us and the forces of violence and chaos. We ask them to protect our homes and property and to save our lives at the risk of their own. We ask them to patrol our highways and our borders, to keep our children safe from drug dealers and gang leaders, and to bring to justice the murderers, terrorists, rapists, and other criminals who prey on our society. We lean heavily on this thin blue line, and it never breaks.

Last year, in carrying out their awesome responsibilities, 158 law enforcement officers lost their lives—and the lives of their families and friends were changed forever. After several years of decreased violence against our law enforcement community, we face the sobering reality that police officer fatalities rose 27 percent during 1997.

As we honor these heroes—those who still live and work among us, and those who have made the ultimate sacrifice for our well-being—let us reaffirm our efforts to end the violence that has taken such a heavy toll on our Nation's law enforcement community. Let us work to ensure that America's police officers have the training, resources, manpower, and community support they need to carry out the crucial responsibilities with which we charge them. In this way we can best honor the service and sacrifice of the thousands of fallen police officers whose memory we honor and whose devotion to duty has earned our respect and lasting gratitude.

By a joint resolution approved October 1, 1962 (76 Stat. 676), the Congress has authorized and requested the President to designate May 15 of each year as "Peace Officers Memorial Day" and the week in which it falls as "Police Week," and, by Public Law 103–322 (36 U.S.C. 175), has directed that the flag be flown at half-staff on Peace Officers Memorial Day.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 15, 1998, as Peace Officers Memorial Day and May 10 through May 16, 1998, as Police Week. I call upon the people of the United States to observe these occasions with appropriate ceremonies, programs, and activities. I also request the Governors of the United States and of the Commonwealth of Puerto Rico, as well as the appropriate officials of all units of government, to direct that the flag of the United States be flown at half-staff on Peace Officers Memorial Day on all buildings, grounds, and naval vessels throughout the United States and all areas under its jurisdiction and control. I also invite all Americans to display the flag at half-staff from their homes on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of May, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-second.

William J. Clinton

[FR Doc. 98–13205
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H.J. Res. 102/P.L. 105–175

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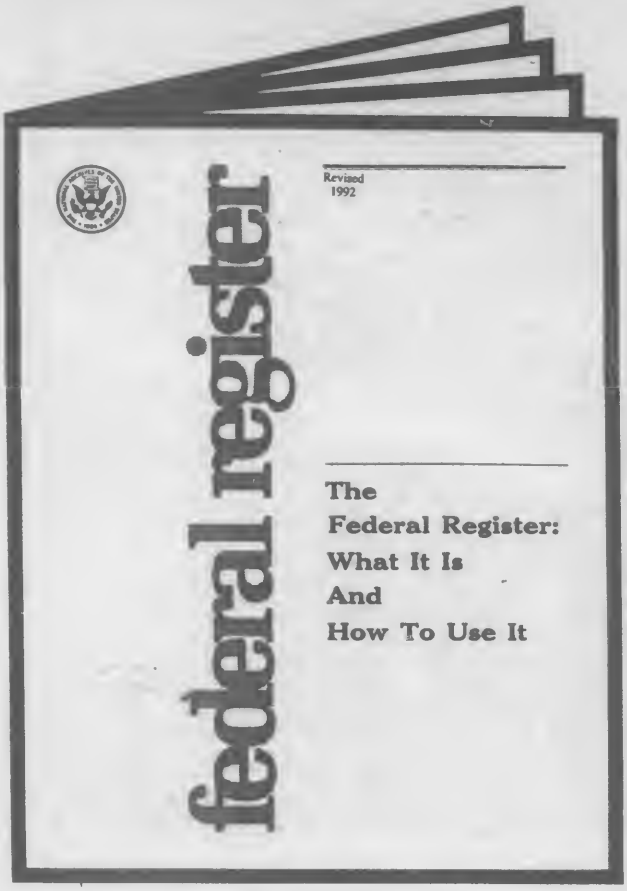

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