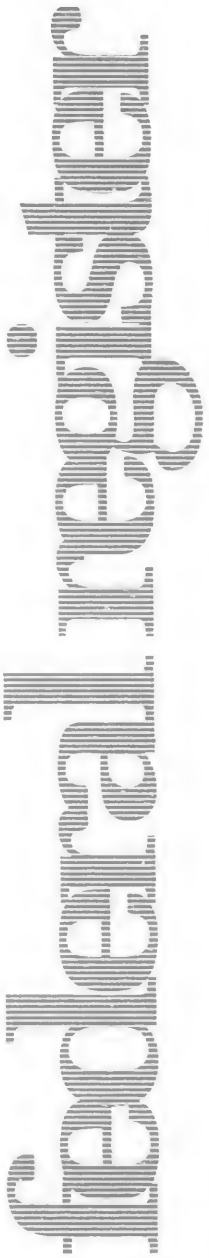
10–9–98
Vol. 63 No. 196



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Friday
October 9, 1998

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RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 63, No. 196

Friday, October 9, 1998

Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
7134 54551

7 CFR
922 54341
948 54342
987 54344
Proposed Rules:
967 54382
1065 54383
1788 54385

8 CFR
286 54526

10 CFR
Proposed Rules:
50 54389

14 CFR
39 54347
71 (4 documents) 54349, 54350
Proposed Rules:
39 (5 documents) 54391, 54393, 54395, 54399, 54401
71 54403

17 CFR
Proposed Rules:
240 54404

20 CFR
Proposed Rules:
404 54417
416 54417

21 CFR
556 54352
558 54352

24 CFR
Proposed Rules:
35 54422
36 54422
37 54422
3282 54528

31 CFR
Proposed Rules:
212 54426

33 CFR
117 (2 documents) 54353

36 CFR
811 54354

40 CFR
52 54358
148 54356
180 (3 documents) 54357, 54360, 54362
261 54356
266 54356
268 54356
271 54356
302 54356

42 CFR
422 54526

44 CFR
64 (2 documents) 54369, 54371
65 (2 documents) 54373, 54376
67 54378
Proposed Rules:
67 54427

47 CFR
64 54379
73 (2 documents) 54380
Proposed Rules:
61 54430
69 54430
73 (2 documents) 54431

49 CFR
Proposed Rules:
395 54432
396 54432

50 CFR
679 54381
Proposed Rules:
644 54433

Rules and Regulations

Federal Register
Vol. 63, No. 196
Friday, October 9, 1998

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 922

[Docket No. FV98–922–1 FIR]

Apricots Grown in Designated Counties In Washington; Change in Container Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which modified container requirements prescribed under the Washington apricot marketing order. The marketing order regulates the handling of apricots grown in designated counties in Washington and is administered locally by the Washington Apricot Marketing Committee (Committee). This rule continues in effect an action which removed the requirement requiring the use of a top pad when apricots are packed loose in closed containers weighing not less than 24 pounds. Continuation of that action will allow handlers greater flexibility in determining the need for a top pad depending on apricot variety or container dimensions, and is expected to increase returns to producers and improve the quality of apricots available to consumers.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, 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 No. 132 and Marketing Order No. 922 (7 CFR part 922), regulating the handling of apricots grown in designated counties in Washington, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

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

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. A 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 continues in effect the revision to the language in the order's container regulations which removed the requirement requiring the use of a top pad when apricots are packed loose in closed containers weighing not less than 24 pounds. A top pad is a pad made of various materials, typically paper, which is placed on top of fruit packed in a closed container. Continuing the removal of that requirement will allow handlers greater flexibility in determining the need for a top pad depending on apricot variety or container dimensions, and is expected to increase returns to producers and handlers, and to improve the quality of apricots available to consumers.

Section 922.52 of the order provides authority for container regulations and § 922.53 provides for the modification, suspension, or termination of the container regulations due to changed conditions. The container regulations are prescribed in § 922.306. Paragraph (a)(4) of that section previously required handlers to use a top pad when apricots were packed loose in closed containers weighing not less than 24 pounds.

At its May 14, 1998, meeting the Committee unanimously recommended removing the requirement requiring mandatory use of a top pad in apricots packed loose in closed containers weighing not less than 24 pounds. The requirement for a top pad was intended to protect apricots from bouncing and bruising during transportation to market. However, some varieties of apricots, typically the newer and larger varieties, are often damaged from rubbing against a top pad. The Committee believed that some varieties of apricots, typically the older and smaller varieties, still derive benefit from the use of a top pad. Therefore, the Committee believed that handlers should have the flexibility to determine whether or not to use a top pad when using closed containers depending on apricot variety or container dimensions. Previously, the container regulations required the use of a top pad regardless of the apricot variety or the dimensions of the closed container. This rule continues to give handlers the flexibility to use different packaging techniques for different varieties, and to develop new packaging techniques that do not require a top pad. It also gives them the flexibility to use containers with different dimensions because some containers may not have sufficient space for a top pad. Continuing the removal of the top pad requirement is expected to increase returns to producers and handlers by eliminating the cost of a top

pad (ranging in cost from 4 cents per pad for paper to 25 cents per pad for foam), and to improve the quality of apricots available to consumers because of decreased fruit damage during transit. The removal of the requirement requiring mandatory use of a top pad for apricots packed loose in closed containers weighing not less than 24 pounds will save producers and handlers the cost of a top pad when the pad is not needed.

An editorial change which removes, for clarity, reference in § 922.306(a)(4) to containers being row-faced or tray-packed does not eliminate the current requirement in § 922.306(a)(2) which applies to all containers with a net weight of apricots greater than 14 pounds.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final 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 75 handlers of Washington apricots who are subject to regulation under the order and approximately 400 apricot producers in the regulated 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 Washington apricot handlers and producers may be classified as small entities.

At its May 14, 1998, meeting the Committee unanimously recommended removing the requirement requiring mandatory use of a top pad in apricots packed loose in closed containers weighing not less than 24 pounds. The requirement for a top pad was intended to protect apricots from bouncing and bruising during transportation to market. However, some varieties of apricots, typically the newer and larger varieties, were often damaged from rubbing against a top pad. The Committee believed that some varieties of apricots, typically the older and smaller varieties, still derive benefit from the use of a top pad. Therefore, the Committee believed that handlers should have the flexibility to determine whether or not to use a top pad in these closed containers depending on apricot variety or container dimensions. Previously, the container regulations required the use of a top pad regardless of the apricot variety or the dimensions of the closed container. This rule continues to provide handlers greater flexibility by allowing them to use different packaging techniques for different varieties, and to develop new packaging techniques that do not require a top pad. This rule also provides handlers greater flexibility by permitting them to use containers with different dimensions because some containers may not have sufficient space for a top pad. Continuing the removal of the top pad requirement, is expected to increase returns to producers and handlers by eliminating the cost of a top pad (ranging in cost from 4 cents per pad for paper to 25 cents per pad for foam) when the pad is not necessary, and to improve the quality of apricots available to consumers because of decreased fruit damage during transit.

The only alternative identified by the Committee was to continue the mandatory use of a top pad. However, this alternative was not adopted because use of the top pad in some containers damaged certain varieties of apricots during shipment.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large apricot handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the Washington apricot industry and all interested persons were invited to attend the meeting and participate in Committee deliberations. Like all Committee meetings, the May 14, 1998, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue. The Committee itself is composed of 12 members, of which four are handlers and eight are growers, the majority of whom are small entities.

An interim final rule concerning this action was published in the Federal Register on June 16, 1998 (63 FR 32717). Copies of the rule were mailed by the Committee's staff to all Committee members and apricot handlers. In addition, the rule was made available through the Internet by the Office of the Federal Register. That rule provided for a 60-day comment period which ended August 17, 1998. No comments were received.

After consideration of all relevant material presented, including the Committee's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the Federal Register (63 FR 32717, June 16, 1998) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 922

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 922 which was published at 63 FR 32717 on June 16, 1998, is adopted as a final rule without change.

Dated: October 5, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–27181 Filed 10–8–98; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV98–948–1 FIR]

Irish Potatoes Grown in Colorado; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule which decreased the assessment rate, from $0.0030 to $0.0015 per hundredweight of potatoes handled, established for the Colorado Potato Administrative Committee, San Luis Valley Office (Area II) (Committee) under Marketing Order No. 948 for the 1998–99 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of potatoes grown in Colorado. Authorization to

assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on September 1 and ends August 31. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Dennis L. West, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440, or George J. 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 No. 97 and Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Colorado potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning September 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues to decrease the assessment rate established for the Committee for the 1998–99 and subsequent fiscal periods from $0.0030 to $0.0015 per hundredweight of potatoes handled.

The Colorado potato marketing 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 members of the Committee are producers and handlers of Colorado Area II potatoes. They are 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 assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

In Colorado, both a State and a Federal marketing order operate simultaneously. The State order authorizes promotion, including paid advertising, which the Federal order does not. All expenses in this category are financed under the State order. The jointly operated programs consume about equal administrative time and the two orders continue to split administrative costs equally.

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely 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 May 21, 1998, and recommended, by a nine to one vote, 1998–99 expenditures of $66,895 and an assessment rate of $0.0015 per hundredweight of potatoes. The Committee member voting no objected to the amount being budgeted for the executive director's salary, but had no problem with the total amount budgeted or the reduction in the assessment rate. In comparison, last year's budgeted expenditures were $63,329. The assessment rate of $0.0015 is $0.0015 less than the rate previously in effect. The Committee voted to lower the assessment rate and use some of the funds in its operating reserve to bring the reserve closer to the amount it believes necessary to administer the program. The decrease will reduce the financial burden on handlers as prices for San Luis Valley potatoes have been extremely low the past two seasons. Overproduction of the 1996 fall crop and unusually cold weather during the 1997 fall crop growing season resulted in major financial disasters within the San Luis Valley potato industry. The Committee discussed various assessment rates, but decided that an assessment rate of less than $0.0015 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $37,210 for salaries, $10,850 for office expenses, which include telephone, supplies, and postage, and $5,250 for building maintenance, which includes insurance and utilities. Budgeted expenses for these items in 1997–98 were $35,579, $9,500, and $5,250, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Colorado Area II potatoes. Potato shipments for the year are estimated at 16,500,000 hundredweight which should provide $24,750 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve ($124,903 as of September 1, 1997) will be kept within the maximum permitted by the order (less than approximately two fiscal periods' expenses; § 948.78).

The assessment rate established in this rule will 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 is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are

open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final 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 285 producers of Colorado Area II potatoes in the production area and approximately 100 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Colorado Area II potato producers and handlers may be classified as small entities.

This rule continues to decrease the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent fiscal periods from $0.0030 to $0.0015 per hundredweight of potatoes handled. The Committee by a nine to one vote recommended 1998–99 expenditures of $66,895 and an assessment rate of $0.0015 per hundredweight of potatoes handled. The Committee member voting no objected to the amount being budgeted for the executive director's salary but had no problem with the total amount budgeted or the reduction in the assessment rate. In comparison, last year's budgeted expenditures were $63,329. The assessment rate of $0.0015 is $0.0015 lower than the 1997–98 rate. The Committee voted to lower the assessment rate and use some of the funds in its operating reserve to bring the reserve closer to the amount it believes necessary to administer the program. The decrease will reduce the financial burden on handlers as prices for San Luis Valley potatoes have been extremely low the past two seasons. Overproduction of the 1996 fall crop and unusually cold weather during the 1997 fall crop growing season resulted in major financial disasters within the San Luis Valley potato industry. The Committee discussed various assessment rates but decided that an assessment rate of less than $0.0015 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 1998–99 fiscal period include $37,210 for salaries, $10,850 for office expenses, which include telephone, supplies, and postage, and $5,250 for building maintenance which includes insurance and utilities. Budgeted expenses for these items in 1997–98 were $35,579, $9,500, and $5,250, respectively.

With Colorado Area II potato shipments for 1998–99 estimated at 16,500,000 hundredweight, the $0.0015 rate of assessment should provide $24,750 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve ($124,903 as of September 1, 1997) will be kept within the maximum permitted by the order (less than approximately two fiscal periods' expenses; § 948.78).

Recent price information indicates that the grower price for the 1998–99 marketing season will range between $1.60 and $6.15 per hundredweight of Colorado potatoes. Therefore, the estimated assessment revenue for the 1998–99 fiscal period as a percentage of total grower revenue will range between 0.0900 and 0.0243 percent.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Colorado Area II potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 21, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action will not impose any additional reporting or recordkeeping requirements on either small or large Colorado Area II potato 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.

An interim final rule concerning this action was published in the **Federal Register** on July 16, 1998 (63 FR 38282). Copies of that rule were also mailed or sent via facsimile to all Area II potato handlers. Finally, the interim final rule was made available through the Internet by the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on September 14, 1998, and no comments were received.

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

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

PART 948—IRISH POTATOES GROWN IN COLORADO

Accordingly, the interim final rule amending 7 CFR part 948 which was published at 63 FR 38282 on July 16, 1998, is adopted as a final rule without change.

Dated: October 5, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–27182 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 987

[Docket No. FV98–987–1 FR]

Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule increases the assessment rate from $0.0556 to $0.10 per hundredweight established for the California Date Administrative Committee (Committee) under Marketing Order No. 987 for the 1998–99 and subsequent crop years. The Committee is responsible for local administration of the marketing order which regulates the handling of dates produced or packed in Riverside County, California. Authorization to assess date handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The crop year began October 1 and ends September 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

EFFECTIVE DATE: October 13, 1998.

FOR FURTHER INFORMATION CONTACT: Diane Purvis, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey St., suite 102B, Fresno, CA 93721; telephone: (209) 487–5901; Fax: (209) 487–5906; or George Kelhart, Technical Advisor, 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. 987, both as amended (7 CFR part 987), regulating the handling of domestic dates produced or packed in Riverside County, California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California date handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable dates beginning on October 1, 1998, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule increases the assessment rate established for the Committee for the 1998–99 and subsequent crop years from $0.0556 per hundredweight to $0.10 per hundredweight of assessable dates handled.

The California date marketing 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 members of the Committee are producers and producer-handlers of California dates. They are 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 assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1996–97 and subsequent crop years, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from crop year to crop year 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 June 4, 1998, and unanimously recommended 1998–99 expenditures of $80,000 and an assessment rate of $0.10 per hundredweight of dates handled. In comparison, last year's budgeted expenditures were $60,000. The assessment rate of $0.10 is $0.0444 higher than the rate currently in effect. The higher assessment rate is needed to offset an expected reduction in funds available to the Committee from the sale of cull dates. Proceeds from such sales are deposited into the surplus account for subsequent use by the Committee in covering the surplus pool share of the Committee's expenses. Handlers may also dispose of cull dates of their own production within their own livestock-feeding operation; otherwise, such cull dates must be shipped or delivered to the Committee for sale to non-human food product outlets.

The Committee expects to apply $40,000 of surplus account monies to cover surplus pool expenses during 1997–98. Based on a recent trend of declining sales of cull dates over the past few years, the Committee expects the surplus pool share of expenses during 1998–99 to be $30,000, or $10,000 less than expected during 1997–98. Hence, the revenue available from the surplus pool to cover Committee expenses during 1998–99 is expected to be 25 percent less than last year. To offset this reduction in income, the Committee recommended increasing the assessment rate and using $20,000 from its administrative reserves to fund the 1998–99 budget.

The major expenditures recommended by the Committee for the 1998–99 year include $32,100 in salaries and benefits, $20,000 in office administration, and $23,990 in office expenses. Office administration includes $16,000 towards the salary for a new compliance officer position. Budgeted expenses for these items in 1997–98 were $37,627 in salaries and benefits and $18,507 in office expenses.

The assessment rate recommended by the Committee was derived from applying the following formula where:

A = 1998–99 surplus account ($30,000);
B = amount taken from administrative reserves ($20,000);
C = 1998–99 expenses ($80,000);
D = 1998–99 expected shipments (300,000 hundredweight);
(C − (A + B)) <divide> D = $0.10 per hundredweight.

Estimated shipments should provide $30,000 in assessment income. Income derived from handler assessments, the surplus account (which contains money from cull date sales), and the administrative reserves will be adequate to cover budgeted expenses. Funds in the reserve are expected to total about

$20,000 by September 30, 1998, and therefore will be less than the maximum permitted by the order (not to exceed 50% of the average of expenses incurred during the most recent five preceding crop years; § 987.72(c)).

The assessment rate established in this rule will 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 will be in effect for an indefinite period, the Committee will continue to meet prior to or during each crop year 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. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1998–99 budget has been approved; and those for subsequent crop years would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final 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 135 producers of dates in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of California date producers and handlers may be classified as small entities.

This rule increases the assessment rate established for the Committee and collected from handlers for the 1998–99 and subsequent crop years from $0.0556 per hundredweight to $0.10 per hundredweight of assessable dates handled. The Committee unanimously recommended 1998–99 expenditures of $80,000 and an assessment rate of $0.10 per hundredweight. The assessment rate of $0.10 is $0.0444 higher than the 1997–98 rate. The quantity of assessable dates for the 1998–99 crop year is estimated at 300,000 hundredweight. Thus, the $0.10 rate should provide $30,000 in assessment income and, in conjunction with other funds available to the Committee, be adequate to meet this year's expenses. Funds available to the Committee include income derived from assessments, the surplus account (which contains money from cull date sales), and the administrative reserves.

The major expenditures recommended by the Committee for the 1998–99 year include $32,100 in salaries and benefits, $20,000 in office administration, and $23,990 in office expenses. Office administration includes $16,000 towards the salary for a new compliance officer position. Budgeted expenses for these items in 1997–98 were $37,627 in salaries and benefits and $18,507 in office expenses.

The higher assessment rate is needed to offset an expected reduction in funds available to the Committee from the sale of cull dates to non-human food product outlets. Proceeds from such sales are deposited into the surplus account for subsequent use by the Committee. Last year, the Committee applied $40,000 to the budget from the sale of cull dates as the surplus account's share of Committee expenses. Based on a trend of declining sales of cull dates over the past few years, this year the Committee expects to only be able to apply $30,000 (25 percent less) to the budget from the sale of cull dates. To offset this reduction in income, the Committee recommended increasing the assessment rate and using $20,000 from its administrative reserves to fund the 1998–99 budget. Funds in the reserve are expected to total about $20,000 on September 30, 1998, and therefore will be less than the maximum permitted under the order (not to exceed 50 percent of the average of expenses incurred during the most recent five preceding crop years; § 987.72(c).

The Committee reviewed and unanimously recommended 1998–99 expenditures of $80,000 which included increases in salaries and benefits and administrative expenses. Prior to arriving at this budget, the Committee considered alternative expenditure levels, including a proposal to not fund a compliance officer position, but determined that expenditures for the position were necessary to promote compliance with program requirements. The assessment rate of $0.10 per hundredweight of assessable dates was then determined by applying the following formula where:

A = 1998–99 surplus account ($30,000);
B = amount taken from administrative reserves ($20,000);
C = 1998–99 expenses ($80,000);
D = 1998–99 expected shipments (300,000 hundredweight);
(C − (A + B)) <divide> D = $0.10 per hundredweight.

A review of historical information and preliminary information pertaining to the upcoming crop year indicates that the grower price for the 1998–99 season could range between $30 and $75 per hundredweight of dates. Therefore, the estimated assessment revenue for the 1998–99 crop year as a percentage of total grower revenue could be less than one percent.

This action increases 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 are offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the California date industry, and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 4, 1998, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This rule imposes no additional reporting or recordkeeping requirements on either small or large California date 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 proposed rule concerning this action was published in the **Federal Register** on July 24, 1998,(63 FR 39757). Copies of the proposed rule were also mailed or sent via facsimile to all date handlers. Finally, the proposal was made available through the Internet by

the Office of the Federal Register. A 60-day comment period ending September 22, 1998, was provided for interested persons to respond to the proposal. No comments were received.

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because the 1998–99 crop year began October 1, 1998, and the marketing order requires that the rate of assessment for each crop year apply to all assessable dates handled during such period. The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuing basis. Further, handlers are aware of this rule which was recommended at a public meeting. Also, a 60-day comment period was provided for in the proposed rule, and no comments were received in response to that rule.

List of Subjects in 7 CFR Part 987

Dates, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 987 is amended as follows:

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR part 987 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 987.339 is revised to read as follows:

§ 987.339 Assessment rate.

On and after October 1, 1998, an assessment rate of $0.10 per hundredweight is established for California dates.

Dated: October 2, 1998.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 98–27180 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–54–AD; Amendment 39–10821; AD 98–08–25 R1]

RIN 2120–AA64

Airworthiness Directives; Twin Commander Aircraft Corporation 500, 680, 690, and 695 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises Airworthiness Directive (AD) 98–08–25, which currently requires replacing the nose landing gear (NLG) drag link bolt with an approved heat-treated bolt that has the manufacturer's serial number, manufacture date, and the last three digits of the drawing number (055) on the bolt head on certain Twin Commander Aircraft Corporation (Twin Commander) 500, 680, 690, and 695 series airplanes; and changing the bolt part number (P/N) to be installed on Models 690D and 695A from P/N ED10055 to P/N 750076–1. The FAA inadvertently transposed the serial numbers of the 4 affected Model 695A airplanes. This AD retains the same actions of AD 98–08–25, and corrects the serial numbers of these 4 airplanes. Three of the four airplanes are not on the U.S. Register and the other one is already in compliance with the actions of AD 98–08–25. The actions specified in this AD are intended to continue to prevent the NLG from collapsing due to failure of a drag link bolt, which could result in loss of control of the airplane during landing operations.

DATES: Effective January 5, 1999.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of May 18, 1998 (63 FR 19387, April 20, 1998).

Comments for inclusion in the Rules Docket must be received on or before December 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–54–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from the Twin Commander Aircraft Corporation, 19010 59th Drive NE, Arlington, Washington 98223–7832; telephone: (360) 435–9797; facsimile: (360) 435–1112. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–54–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: Jeffrey Morfitt, Aerospace Engineer, FAA, Seattle Aircraft Certification Office, 1601 Lind Ave. SW, Renton, Washington, 98055–4056; telephone: (206) 227–2595; facsimile: (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Discussion

On April 9, 1998, the FAA issued AD 98–08–25, Amendment 39–10474 (63 FR 19387, April 20, 1998), which applies to certain Twin Commander 500, 680, 690, and 695 series airplanes. AD 98–08–25 currently requires replacing the NLG drag link bolt with an approved heat-treated bolt that has the manufacturer's serial number, manufacture date, and the last three digits of the drawing number (055) on the bolt head on all of the affected airplanes; and changing the bolt part number (P/N) to be installed from P/N ED10055 to P/N 750076–1, on Models 690D and 695A airplanes. Accomplishment of the actions of AD 98–08–25 are required in accordance with Twin Commander Service Bulletin 224, Revision C, dated July 25, 1996.

The actions specified by AD 98–08–25 are intended to prevent the nose landing gear (NLG) from collapsing because of failure of a drag link bolt, which could result in loss of control of the airplane during landing operations.

AD 98–08–25 was the result of the FAA's determination that a defective lot of drag link bolts used in the NLG was manufactured and distributed to the field.

Events Leading to the Issuance of This AD

Since AD 98–08–25 became effective, the FAA has realized that it inadvertently transposed the serial numbers of the 4 affected Model 695A airplanes. In particular, the AD currently contains Model 695A airplanes, serial numbers 69010, 69041, 69056, and 69061. The affected serial numbers should be 96010, 96041, 96056, and 96061.

Three of the four airplanes are not on the U.S. Register and the other one is already in compliance with the actions of AD 98–08–25.

The FAA's Determination

After examining all information related to the subject described above, the FAA has determined that additional AD action should be taken to:

—Correct the serial numbers of the Model 695A airplanes; and

—Continue to prevent the NLG from collapsing due to failure of a drag link bolt, which could result in loss of control of the airplane during landing operations.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Twin Commander 500, 680, 690, and 695 series airplanes of the same type design registered in the United States, the FAA is issuing an AD to revise AD 98–08–25. This AD retains the same actions of AD 98–08–25 for all of the affected airplanes, and corrects the serial numbers of the Model 695A airplanes.

Accomplishment of the actions of this AD is still required in accordance with Twin Commander Service Bulletin 224, Revision C, dated July 25, 1996.

Cost Impact

The FAA estimates that 54 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish these actions, and that the average labor rate is approximately $60 an hour. The manufacturer is providing parts and one hour labor free of charge. With this in mind, this AD imposes no cost impact upon the U.S. operators of the affected airplanes.

The only difference between this AD and AD 98–08–25 is the revision to the serial numbers of the Model 695A airplanes. Of these 4 airplanes, 3 are currently not on the U.S. registry and the other is already in compliance with the AD. Therefore, there is no cost impact of this AD over that already required by AD 98–08–25.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Since the actions have already been incorporated on the one Model 695A airplane that is on the U.S. registry, this AD revision will impose no additional actions upon U.S. operators of the affected airplanes. In accordance with § 11.17 of the Federal Aviation Regulations (14 CFR 11.17) unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment, is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, a written adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–CE–54–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 noncontroversial and unlikely to result in adverse or negative comments. For reasons discussed in the preamble, I certify that 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) 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 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 Airworthiness Directive (AD) 98–08–25, Amendment 39–10474 (63 FR 19387, April 20, 1998), and adding a new AD to read as follows:

98–08–25 R1 Twin Commander Aircraft Corporation: Amendment 39–10821; Docket No. 96–CE–54–AD. Revises AD 98–08–25, Amendment 39–10474, which superseded AD 96–12–08, Amendment 39–9650.

Applicability: The following model and serial number airplanes, certificated in any category:

Models	Serial Nos.
500S	3185, 3228, 3230, 3262, and 3291.
500U	1765.
680F	1195.
681	6027.
680V	1677.
690	11035, 11053, 11068, and 11074.
690A	11111, 11134, 11146, 11153, 11173, 11177, 11205, 11215, 11237, 11249, 11271, 11273, and 11282.
690B	11360, 11382, 11409, 11424, 11451, 11455, 11463, 11491, 11513, 11521, 11535, 11536, 11539, and 11566.
690C	11638, 11643, 11676, 11689, and 11719.
690D	15041.
695	95010, 95033, 95044, and 95066.
695A	96010, 96041, 96056, and 96061.

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

Compliance: Required as indicated below, unless already accomplished:

1. *For all affected airplane models, except for Model 695A airplanes:* Within 75 hours time-in-service (TIS) after May 18, 1998 (the effective date of AD 98–08–25).

2. *For Model 695A airplanes:* Within the next 75 hours TIS after the effective date of this AD.

To prevent the nose landing gear (NLG) from collapsing due to failure of a drag link bolt, which could result in loss of control of the airplane during landing operations, accomplish the following:

(a) For all airplane models, except for Models 690D and 695A, replace the NLG drag link bolt, part number (P/N) ED 10055, with a new bolt in accordance with the INSTRUCTIONS section of Twin Commander Service Bulletin (SB) 224, Revision C, dated July 25, 1996.

(b) For airplane Models 690D and 695A, replace the NLG drag link bolt (P/N ED 10055), with a new bolt (P/N 750076–1) in accordance with Twin Commander SB 224, Revision C, dated July 25, 1996.

(c) The new replacement bolt must be marked with the manufacturer's serial number, the date of manufacture, and the last three digits of the drawing number, 055, on the bolt head for all but Models 690D and 695A. Models 690D and 695A bolts must be marked with the manufacturer's serial number, the date of manufacture, and the last three digits of the drawing number, 76–1, on the bolt head.

Note 2: Although not required by this AD, FAA highly recommends that the removed bolt (P/N ED 10055) be returned to Twin Commander for Rockwell Hardness testing.

(d) For all affected airplane models, except for Models 690D and 695A airplanes, compliance with Twin Commander SB 224, Revision A, dated April 24, 1996; or Twin Commander SB 224, Revision C, dated July 25, 1996, fulfills the applicable requirements of this AD. For the affected Models 690 and 695A airplanes, compliance must be in accordance with Twin Commander SB 224, Revision C, dated July 25, 1998.

(e) As of the effective date of this AD, no person shall install, on any affected airplane, a NLG drag link bolt that does not have the manufacturer's serial number, manufacture date, and the last three digits of the drawing number as specified in paragraph (c) of this AD.

(f) Special flight permits may be issued in accordance with §§ 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.

(g) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Seattle Aircraft Certification Office, 1601 Lind Ave. SW, Renton, Washington, 98055–4056. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Seattle 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 Seattle Aircraft Certification Office.

(h) The inspection and replacement required by this AD shall be done in accordance with Twin Commander Service Bulletin 224, Revision C, dated July 25, 1996. This incorporation by reference was previously approved by the Director of the Federal Register as of May 18, 1998 (63 FR 19387, April 20, 1998). Copies may be obtained from Twin Commander Aircraft Corporation, 19010 59th Drive NE, Arlington, Washington 98223–7832. 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.

(i) This amendment revises AD 98–08–25, Amendment 39–10474, which superseded AD 96–12–08, Amendment No. 39–9650.

(j) This amendment becomes effective on January 5, 1999.

Issued in Kansas City, Missouri, on September 30, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–26974 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–29]

Amendment to Class E Airspace; Denison, IA; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule which revises the Class E airspace at Denison, IA, and corrects the state identification for Denison Municipal Airport as published in the direct final rule.

DATES: The direct final rule published at 63 FR 42692 is effective on 0901, UTC, December 3, 1998.

This correction is effective on December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: On August 11, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which revises the Class E airspace at Denison, IA (FR Document 98–21475, 63 FR 42692, Airspace Docket No. 98–ACE–29). An error was subsequently discovered with the state identification for Denison Municipal Airport. After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the

public interest require adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the state identification and confirms the effective date of the direct final rule.

The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 98–21475 published in the **Federal Register** on August 11, 1998, 63 FR 42692, make the following correction to the Denison Municipal Airport, state identification incorporated by reference in 14 CFR 71.1:

§ 71.1 [Corrected]

ACE IA E5 Denison, IA [Corrected]

On page 42693, in the third column, under ACE IA Denison, IA [Revised] change "Denison Municipal Airport, KS" to read "Denison Municipal Airport, IA."

Issued in Kansas City, MO on September 22, 1998.

Donald F. Hensley,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–27256 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–27]

Amendment to Class E Airspace; Ottumwa, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Ottumwa, IA.

DATES: The direct final rule published at 63 FR 44127 is effective on 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri, 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 18, 1998 (63 FR 44127). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. NO adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 22, 1998.

Donald F. Hensley,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–27254 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–26]

Amendment to Class E Airspace; Clinton, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E airspace at Clinton, IA.

DATES: The direct final rule published at 63 FR 44378 is effective on 0901 UTC, December 3, 1998.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri, 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on August 19, 1998 (63 FR 44378). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on December 3, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on September 22, 1998.

Donald F. Hensley,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–27251 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–43]

Amendment to Class E Airspace; Meade, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Meade Municipal Airport, Meade, KS. The FAA has developed Global Positioning System (GPS) Runway (RWY) 17, GPS RWY 35, and Nondirectional Radio Beacon (NDB) RWY 17 Standard Instrument Approach Procedures (SIAPs) to serve Meade Municipal Airport, KS. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 17, GPS RWY 35, and NDB RWY 17 SIAPs in controlled airspace.

In addition, a minor revision to the geographic coordinates for the Airport Reference Point (ARP) is included in this document. The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 17, GPS RWY 35, and NDB RWY 17 SIAPs, revise the coordinates for the Meade Municipal Airport ARP, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, January 28, 1999.

Comments for inclusion in the Rules Docket must be received on or before November 25, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–43, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 17, GPS RWY 35, and NDB RWY 17 SIAPs to serve the Meade Municipal Airport, Meade, KS. The Class E airspace includes a minor revision to the geographic coordinates for the Meade Municipal Airport ARP. The amendment to Class E airspace at Meade, KS, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related 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 action 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–ACE–43." The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial 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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, 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 Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

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

* * * * *

ACE KS E5 Meade, KS [Revised]

Meade Municipal Airport, KS
(Lat. 37°16'37" N., long. 100°21'23" W.)
Meade NDB

(Lat. 37°17'03" N., long. 100°21'31" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Meade Municipal Airport and within 2.5 miles each side of the 009° bearing from the Meade NDB extending from the 6.5-mile radius to 7 miles north of the airport.

* * * * *

Issued in Kansas City, MO, on September 23, 1998.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–27249 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

New Animal Drugs For Use In Animal Feeds; Ivermectin

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 Merial Ltd. The supplemental NADA provides for use of ivermectin Type A medicated articles to make Type B and C medicated swine feeds, to make Type C feed for treatment and control of threadworms (*Strongyloides ransomi*), and as top-dressing for individual treatment of adult swine.

EFFECTIVE DATE: October 9, 1998.

FOR FURTHER INFORMATION CONTACT: Estella Z. Jones, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Merial Ltd., 2100 Ronson Rd., Iselin, NJ 08830–3077, is sponsor of NADA 140–974 that provides for use of Ivomec (ivermectin 0.6%) Type A articles to make ivermectin Type B and C swine feeds. The Type C feeds contain 1.8 grams ivermectin per ton for feeding to weaned, growing and finishing swine, and adult and breeding swine. It is used for treatment and control of gastrointestinal roundworm, kidney worm, and lungworm infections, and lice and mite infestations. The supplemental NADA provides for use of the Type C feeds for treatment and control of threadworms (*Strongyloides ransomi*) infections, specifically treatment and control of "threadworms (*Strongyloides ransomi*, adults and somatic larvae, and prevention of transmission of infective larvae to piglets, via the colostrum or milk, when fed during gestation)," and for use as top-dressing for individual treatment of adult swine. The supplemental NADA is approved as of August 10, 1998, and the regulations are amended in § 558.300 (21 CFR 558.300) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, § 558.300 is amended by redesignating paragraph (c) as paragraph (d), adding new paragraph (c), and in newly redesignated paragraph (d) inserting several editorial and technical changes and adding a required limitation statement.

This supplemental NADA is for use of approved ivermectin Type A medicated articles to make Type B and C medicated feeds. Ivermectin is a Category II drug as defined in 21 CFR 558.3(b)(1)(ii). As provided in 21 CFR 558.4(b), an approved medicated feed application is required for making Type B or C medicated feeds as in this application. Under section 512(m) of the Federal Food, Drug, and Cosmetic Act as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104–250), medicated feed applications have been replaced by the requirement for feed mill licenses. Therefore, use of ivermectin Type A medicated articles to make Type B and C medicated feeds as provided in this NADA is limited to manufacture in a licensed feed mill.

Also, the regulation concerning tolerances for ivermectin residues in edible tissues is amended to provide for an acceptable daily intake (ADI) for total ivermectin residues. The ADI is the amount of total drug residue that can be safely consumed by humans every day. Previously, FDA had codified safe concentrations for drug residues. The safe concentrations were confusing because few individuals understood the relationship between safe concentrations, a value representing total residues, and tolerances, the part of the drug residue in a given tissue that is detected by a specific analytical method. To eliminate this confusion, FDA is codifying the ADI.

In addition, the regulations for tolerances for ivermectin residues is further amended to establish a tolerance for ivermectin residues in swine muscle.

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 supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act, this supplemental approval qualifies for 3 years of marketing exclusivity beginning August 10, 1998, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant. The 3 years of marketing exclusivity applies only to use in swine for treatment and control of threadworms (*Strongyloides ransomi*, adults and somatic larvae, and prevention of transmission of infective larvae to piglets, via the colostrum or milk, when fed during gestation).

FDA has determined under 21 CFR 25.33(a)(1) and (a)(7) 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

21 CFR Part 556

Animal drugs, Foods.

21 CFR Part 558

Animal drugs, Animal feeds.

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 556 and 558 are amended as follows:

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

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

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

2. Section 556.344 is revised to read as follows:

§ 556.344 Ivermectin.

(a) *Acceptable daily intake (ADI).* The ADI for total residues of ivermectin is 1 microgram per kilogram of body weight per day.

(b) *Tolerances*—(1) *Liver.* A tolerance is established for 22,23-dihydroavermectin B_{1a} (marker residue) in liver (target tissue) as follows:

(i) *Cattle.* 100 parts per billion.

(ii) *Swine.* 20 parts per billion.
(iii) *Sheep.* 30 parts per billion.
(iv) *Reindeer.* 15 parts per billion.
(v) *American bison.* 15 parts per billion.
(2) *Muscle.* Muscle residues are not indicative of the safety of other edible tissues. A tolerance is established for 22,23-dihydroavermectin B_{1a} (marker residue) in muscle as follows:
(i) *Swine.* 20 parts per billion.
(ii) [Reserved]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

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

4. Section 558.300 is amended by redesignating paragraph (c) as paragraph (d), by adding new paragraph (c) and reserving it, by adding introductory text to newly redesignated paragraph (d), and by revising newly redesignated paragraph (d)(1), to read as follows:

§ 558.300 Ivermectin.

* * * * *

(c) [Reserved]
(d) *Conditions of use.* It is used in swine feed as follows:
(1) *Amount per ton.* For weaned, growing-finishing swine, feed 1.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day). For adult and breeding swine, feed 1.8 to 11.8 grams of ivermectin (to provide 0.1 milligram per kilogram of body weight per day). For adult and breeding swine, may be top-dressed on daily ration for individual treatment at levels of 18.2 to 1180 grams (to provide 0.1 milligram per kilogram of body weight per day).
(i) *Indications for use.* For treatment and control of gastrointestinal roundworms (*Ascaris suum*, adults and fourth-stage larvae; *Ascarops strongylina*, adults; *Hyostrongylus rubidus*, adults and fourth-stage larvae; *Oesophagostomum spp.*, adults and fourth-stage larvae); kidneyworms (*Stephanurus dentatus*, adults and fourth-stage larvae); lungworms (*Metastrongylus spp.*, adults); threadworms (*Strongyloides ransomi*, adults and somatic larvae, and prevention of transmission of infective larvae to piglets, via the colostrum or milk, when fed during gestation); lice (*Haematopinus suis*); and mange mites (*Sarcoptes scabiei* var. *suis*).
(ii) *Limitations.* For use in swine feed only. Feed as sole ration for 7 consecutive days. Withdraw 5 days before slaughter. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

* * * * *

Dated: September 28, 1998.

Margaret Ann Miller,

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

[FR Doc. 98–27080 Filed 10–8–98; 8:45 am]
BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–98–081]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, NC

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 Onslow Beach Swing Bridge across the Atlantic Intracoastal Waterway (AICW), mile 240.7, at Camp Lejeune, North Carolina. Beginning at 7 a.m. on October 15, through 11:59 p.m. on October 16, 1998, the bridge will be maintained in the closed position. This closure is necessary to facilitate extensive repairs and maintain the bridge's operational integrity.

DATES: This deviation is effective from 7 a.m. on October 15, 1998 until 11:59 p.m. on October 16, 1998.

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

SUPPLEMENTARY INFORMATION: The Onslow Beach Swing Bridge and adjoining property are part of the Marine Corps Base (USMC) at Camp Lejeune military reservation, located adjacent to Jacksonville, North Carolina. On September 15, 1998, a letter was forwarded to the Coast Guard by the USMC requesting a temporary deviation from the normal operation of the bridge. The current regulations in Title 33 Code of Federal Regulations, Section 117.821(a)(3), require the Onslow Beach Swing Bridge to open on signal at all times for commercial vessels and on signal for pleasure vessels, except between 7 a.m. and 7 p.m., the draw need only open on the hour and half hour.

The bridge repairs will replace the bridge balance rail, immobilizing the operation of the swing bridge entirely, including the backup system which uses hydraulic components typically used when the electrical systems are non-operational. Additionally, tugboats, cranes, and barges positioned at the site may impede vessel traffic that could pass under the bridge.

The Coast Guard has informed the known commercial users of the AICW of the bridge closure so that these users can arrange their transits to avoid being negatively impacted by the temporary deviation.

From 7 a.m. on October 15, until 11:59 p.m. on October 16, 1998, this deviation allows the Onslow Beach Swing Bridge across the AICW to remain closed.

Dated: September 29, 1998.

Roger T. Rufe, Jr.,

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

[FR Doc. 98–27247 Filed 10–8–98; 8:45 am]
BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[Docket No. CGD05–98–083]

RIN 2115–AE47

Drawbridge Operation Regulations; New Jersey Intracoastal Waterway; Grassy Sound Channel

AGENCY: Coast Guard, DOT.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulations that govern the operation of the Route 47 (George A. Reading) bridge across Grassy Sound Channel, at Intracoastal Waterway (CW) mile 108.9 in Wildwood, New Jersey by requiring two-hours advance notice for bridge openings 24 hours a day beginning at 7 a.m. on October 19, 1998, through 5 p.m. on May 14, 1999. The bridge will be unattended during these time periods and requests for opening will require calling (609) 352–5362. This action is intended to allow the contractor to facilitate sandblasting and painting operations.

DATES: This regulation is effective from 7 a.m. on October 19, 1998 to 5 p.m. on May 14, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the office of the Commander (Aowb), Fifth District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 8 a.m. and 4:30 p.m., Monday through Friday, except

Federal holidays. The telephone number is (757) 398–6222.

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

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Publication of a notice of proposed rulemaking and delay of effective date would be contrary to the public interest because immediate action is necessary to facilitate the sandblasting and painting operations during the non-peak boating period.

Discussion of Regulation

The current regulation in Title 33 Code of Federal Regulations, Section 117.5, requires the draw to open on signal year-round. A contractor for New Jersey Department of Transportation (NJDOT) requested the Coast Guard to approve a temporary regulation from the normal operation of the bridge by requiring two hours advance notice to open the bridge during the requested time periods in order to accommodate sandblasting and painting of the structure. Due to an extensive containment unit involved with sandblasting and the subsequent painting of the steel, it will take at least a half hour to make the bridge available to be opened and then another half hour to begin work again.

DOT drawbridge logs indicate that from October 1996 through May 1997, the Route 47 (George A. Reading) bridge opened for vessels 657 times with an average of 82 openings per month or approximately three openings per day. The temporary regulation will not significantly disrupt vessel traffic since mariners may still transit the bridge provided the two-hour notice is given.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not 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 rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Due to the small number of requests for openings and the ability of vessels requesting openings to transit through the bridge provided the two-hour advance notice is given, the impact on routine navigation is expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard must consider whether this temporary final rule will have a significant economic 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).

Based on the limited requests for vessel openings and the ability of vessels to transit by requiring two-hours advance notice for bridge openings, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirement under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under Figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Operating regulations for drawbridges are excluded under that authority. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Effective October 19, 1998, through May 14, 1999, Section 117.733 is amended by adding paragraph (k) to read as follows:

§ 117.733 New Jersey Intracoastal Waterway.

* * * * *

(k) The draw of the Route 47 (George A. Reading) bridge across Grassy Sound Channel, mile 108.9 at Wildwood need not open from 7 a.m. on October 19, 1998 to 5 p.m. on May 14, 1999 unless two hours advance notice is given by phoning (609) 352–5362.

Dated: September 29, 1998.

Roger T. Rufe, Jr.,

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

[FR Doc. 98–27246 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–15–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Part 811

Employee Responsibilities and Conduct; Removal of Superseded Regulations and Addition of Residual Cross-References

AGENCY: Advisory Council on Historic Preservation (Council).

ACTION: Final rule.

SUMMARY: The Advisory Council on Historic Preservation is repealing its superseded old agency employee conduct regulations, which have been replaced by the executive branch-wide Standards of Ethical Conduct, financial disclosure and financial interests regulations issued by the Office of Government Ethics (OGE). In place of its old conduct regulations, the Council is adding a section of residual cross-references to those new provisions as well as to certain executive branch-wide conduct rules promulgated by the Office of Personnel Management (OPM).

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: John M. Fowler, Designated Agency Ethics Official, Advisory Council on Historic Preservation, Suite 809, 1100 Pennsylvania Avenue, NW., Washington, DC 20004; telephone: 202–606–8503; FAX: 202–606–8647.

SUPPLEMENTARY INFORMATION: In 1992, OGE issued a final rule setting forth uniform Standards of Ethical Conduct and an interim final rule on financial

disclosure, and in 1996 issued a final rule on financial interests for executive branch departments and agencies of the Federal Government and their employees. Those three executive branch-wide regulations, as corrected and amended, are codified at 5 CFR Parts 2634, 2635 and 2640. Together those regulations have superseded the old Council regulations on employee responsibilities and conduct, which have been codified at 36 CFR Part 811 (and were based on prior OPM standards). Accordingly, the Council is removing its superseded regulations and adding in place thereof a new section containing residual cross-references to the new provisions at 5 CFR Parts 2634, 2635 and 2640. In addition, the Council is including in that section a reference to the specific executive branch-wide restrictions on gambling, safeguarding the examination process and conduct prejudicial to the Government which are set forth in 5 CFR Part 735, as issued by OPM in 1992.

Matters of Regulatory Procedure

Administrative Procedure Act

As Executive Director of the Advisory Council on Historic Preservation (Council), I have found good cause, pursuant to 5 U.S.C. 553(a) (2) and (b), for waiving the notice of proposed rulemaking and opportunity for public comment as to this final rule. The notice and public comment provisions are being waived because it is in the public interest that this rule, which concerns matters of agency organization, management and personnel and merely reflects for Council employees the current regulatory structure for ethical conduct standards, financial disclosure and financial interests, become effective as soon as possible.

Executive Order 12866

The Council is exempt from compliance with Executive Order 12866 pursuant to implementing guidance issued by the Office of Management and Budget's Office of Information and Regulatory Affairs in a memorandum dated October 12, 1993. However, in promulgating this final rule, the Council nevertheless has adhered to the regulatory philosophy and the applicable principles of regulation set forth in Executive Order 12866. This final rule deals with agency organization, management, and personnel matters and is not in any event deemed "significant" thereunder.

Regulatory Flexibility Act

As Executive Director of the Council, I have determined under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) that this final rule will not have a significant economic impact on a substantial number of small entities because it primarily affects Council employees.

Paperwork Reduction Act

As Executive Director of the Council, I have determined that the Paperwork Reduction Act (44 U.S.C. Chapter 35) does not apply to this final rule, because it does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 36 CFR Part 811

Conflict of interests, Government employees.

John M. Fowler,

Executive Director.

For the reasons set forth in the preamble, the Advisory Council on Historic Preservation is revising 36 CFR Part 811 to read as follows:

PART 811—EMPLOYEE RESPONSIBILITIES AND CONDUCT

§ 811.1 Cross-references to employees' ethical conduct standards, financial disclosure and financial interests regulations and other conduct rules.

Employees of the Advisory Council on Historic Preservation are subject to the executive branch-wide standards of ethical conduct, financial disclosure and financial interests regulations at 5 CFR Parts 2634, 2635 and 2640, as well as the executive branch-wide employee responsibilities and conduct regulations at 5 CFR Part 735.

Authority: 5 U.S.C. 7301 and 16 U.S.C. 470, as amended.

[FR Doc. 98–27217 Filed 10–8–98; 8:45 am]
BILLING CODE 4310–10–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD068–3027; FRL–6174–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Withdrawal of Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of notice of final rulemaking.

SUMMARY: Due to receipt of adverse comments, EPA is withdrawing the direct final rule for approval of revisions to the Maryland State Implementation Plan (SIP). EPA published the direct final rule on August 26, 1998 (63 FR 45397) approving revisions to Maryland regulation COMAR 36.11.13 to apply reasonably available control technology on sources that store and handle jet fuel. As stated in that **Federal Register** document, if adverse comments were received by September 25, 1998, a timely notice of withdrawal would be published in the **Federal Register**. EPA subsequently received adverse comments on that direct final rule. EPA will address the comments received in a subsequent final action and issue a final rule based on the parallel proposal also published on August 26, 1998 (63 FR 45443). As stated in the parallel proposal, EPA will not institute a second comment period on this action.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

DATE: The direct final rule published at 63 FR 45397 (August 26, 1998) is withdrawn as of October 9, 1998.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney (215) 814–2092, or by e-mail at gaffney.kristeen@epamail.epa.gov.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: October 1, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 98–27027 Filed 10–8–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 148, 261, 266, 268, 271, and 302

[FRL–6172–3]

RIN 2050–AD88

Technical Amendments to Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; Land Disposal Restrictions for Newly Identified Wastes; And CERCLA Hazardous Substances Designation and Reportable Quantities; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On August 6, 1998, (63 FR 42110), EPA published in the **Federal Register** a final rule concerning the listing of hazardous wastes from petroleum refining under the Resource Conservation and Recovery Act, Reportable Quantity adjustments, promoting recycling of oil-bearing residuals, and applying universal treatment standards to petroleum wastes. The rule established an effective date of August 6, 1998, for certain deregulatory amendments and February 8, 1999, for other amendments. This document corrects the August 6, 1998, effective date of the rule to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801, 808.

EFFECTIVE DATE: The August 6, 1998, rule (63 FR 42110), is effective February 8, 1999, except for the amendments to §§ 261.3(c)(2)(ii)(B), 261.4(a), 261.6(a)(3)(iv)(C), and 266.100(b)(3) and the removal of § 261.6(a)(3)(v) which are effective December 8, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Elliott (703) 308–8748.

SUPPLEMENTARY INFORMATION:

A. Background

Section 801 of the CRA states a rule cannot take effect until the agency issuing the rule submits a rule report, which includes a copy of the rule, a statement as to whether the rule is a "major rule," and the rule's proposed effective date, to each House of Congress and to the Comptroller General of the United States, head of the General Accounting Office (GAO). If the Administrator of the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB) determines that a rule is "major" under section 804(2), section 801(a)(3) further provides that the rule cannot take effect until the later of 60 days after the rule is published in the **Federal Register** or the rule is submitted to Congress and GAO. Non-major rules can be effective at any time after they are submitted to Congress and GAO. Under section 808(2), major rules can take effect sooner than 60 days if the agency makes a "good cause" finding.

EPA issued the August 6, 1998, final rule under a schedule established in a consent decree. OMB completed review of the rule under Executive Order 12866 on June 29, 1998, and the EPA Administrator signed the rule on that day to meet the consent decree deadline. As of the completion of OMB review on June 29, EPA had found no basis in the rulemaking record that would suggest the rule should be considered "major" under the CRA, nor had OMB notified EPA at the conclusion of Executive Order 12866 review of any determination that the rule was major. Accordingly, the final rule stated "[t]his action is not a major rule as defined by 5 U.S.C. 804(2)." (63 FR 42182) On July 17, 1998, EPA sent the rule to the Speaker of the House, the President of the Senate, and the General Accounting Office, in accordance with the CRA, indicating that it was not a major rule. On July 22, 1998, EPA sent the rule to the Office of the Federal Register (OFR), which published it in the **Federal Register** on August 6, 1998.

OMB wrote EPA on July 24, 1998, after EPA had submitted the rule to OFR, that OMB had determined the rule is "major." OMB based its determination on new information submitted by a company in mid-June, almost a year after the close of the public comment period, while the rule was being reviewed by OMB under Executive Order 12866, shortly before the signature date required by the consent decree. After discussing this matter further with OMB, EPA concluded that, because OMB made its determination before the final rule was published in the **Federal Register**, EPA must resubmit the final rule under the CRA as a major rule and revise the effective dates accordingly. EPA must do this because the July submission to Congress and GAO did not identify the rule as "major."

Specific portions of the August 6, 1998, final rule were made effective February 8, 1999. Those portions are not affected by today's action. However, the rule had several deregulatory provisions that were made effective August 6, 1998, the day of publication. These provisions were amendments to 40 CFR 261.3(c)(2)(ii)(B), 261.4(a), 261.6(a)(3)(iv)(C), and 266.100(b)(3) and the removal of 40 CFR 261.6(a)(3)(v). (In the course of reviewing the August 6th **Federal Register** notice to prepare today's action, EPA found a typographical error in the **EFFECTIVE DATES** section of that notice. The final rule amended 40 CFR 266.100(b)(3); however, the **EFFECTIVE DATES** section erroneously referred to it as "261.100(b)(3)." Section 261.100(b)(3) does not exist and was not addressed in the August 6th rule. EPA intended to make the amendment to section 266.100(b)(3) effective along with the other deregulatory amendments. Accordingly, EPA has amended the citation in the **EFFECTIVE DATES** section of today's notice to correct that error.) Although the rule was promulgated on August 6, because OMB determined the rule is "major," under section 801 of SBREFA those deregulatory portions of the rule did not take effect on August 6. EPA cannot make those provisions effective until the later of 60 days after publication of today's document in the **Federal Register** or today's document is submitted to Congress and GAO. To prevent further delay in the effective date for the deregulatory amendments, in today's notice EPA is making a good cause finding under 808(2) of CRA (see below). Accordingly, today's action amending the effective dates is effective upon today's publication, before completion of the 60-day period. Both the August 6th rule and today's action already have been submitted to both Houses of Congress and the GAO. Today's action changes the August 6th effective date of the final rule to December 8, 1998 to be consistent with the CRA. Through today's action EPA also is amending the August 6th rule preamble by stating that t[illegible] August 6th final rule is a "major" rul[illegible] nder the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the August 6 rule to be consistent with the requirements of the CRA as a matter of law and has no discretion in this matter.

Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements, relieves restrictions, and affected parties have known of the underlying rule since August 6, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

The delay in the effective date of the deregulatory provisions (amendments to 40 CFR 261.3(c)(2)(ii)(B), 261.4(a), 261.6(a)(3)(iv)(C), and 266.100(b)(3) and the removal of 40 CFR 261.6(a)(3)(v)) of the August 6, 1998, final rule was caused by OMB's designation of the rule as "major" after EPA had signed the rule and sent it to OFR for publication and EPA's resulting need to resubmit the rule under the CRA. Thus, EPA does not believe that affected persons who acted in good faith relying upon the August 6th effective date stated in the **Federal Register** should be penalized if they were complying with the rule as promulgated from August 6 until today. (This includes persons who may have properly interpreted the amendment to 40 CFR 266.100(b)(3) to be in effect in spite of the typographical error in the **EFFECTIVE DATES** section of the August 6th rule discussed above.) However, since the amendments to 40 CFR 261.3(c)(2)(ii)(B), 261.4(a), 261.6(a)(3)(iv)(C), and 266.100(b)(3) and the removal of 40 CFR 261.6(a)(3)(v) now are not in effect, and will not be in effect until December 8, 1998, affected persons must comply with the existing rules until these provisions take effect on December 8, 1998.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), establish any technical standards subject to the section 12(d) of the National Technology Transfer and Advancement Act, require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or with officials of Indian tribal governments as specified by Executive Orders 12875 and 13084 (63 FR 27655, May 19, 1998), involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), or involve special consideration of children's health and safety risks under Executive Order 13045 (62 FR 19885, April 23, 1997). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders, as applicable, for the August 6th rule is discussed in the August 6, 1998, **Federal Register** notice.

OMB's designation of the August 6th final rule as "major" for purposes of the CRA does not change EPA's analysis of the rule for purposes of other statutes and Executive Orders as described in the August 6th **Federal Register**. The cost information considered by OMB was submitted by a company long after the comment period had closed, while the rule was being reviewed by OMB. The information concerns the cost of leachate management that may result from the August 6th rule and is unverified and unsubstantiated. To address the late information, EPA published a proposed rule, notice of data availability, and request for comment in the same August 6th **Federal Register** asking, among other things, for comment on the information (63 FR 42190). In that notice EPA stated "EPA received this information very late in the rulemaking process" and pointed out that "the information is not even part of the administrative record for the final rule." Although EPA is bound by OMB's determination that the August 6th final rule is "major" for CRA purposes, EPA has no basis to judge whether the recently-submitted cost information is accurate. Thus, EPA has not changed its cost estimates presented in the final rule. As noted in the August 6th proposed rule and notice of data availability, EPA is soliciting comment on this information and may decide temporarily to defer from regulation the leachate in question. Refer to that **Federal Register** notice for more information.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on October 9, 1998. Even though today's action amends the effective date of a "major rule," today's rule is not a "major rule" as defined in 5 U.S.C. 804(2) separate from the August 6 rule.

Today's final rule only amends the effective date of the August 6 rule; it does not amend any substantive requirements contained in that rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 7006 of the Resource Conservation and Recovery Act, challenges to this amendment must be brought by January 7, 1999.

Dated: September 30, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–26790 Filed 10–8–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300726; FRL–6032–5]

RIN 2070–AB78

Paraquat; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the herbicide/desiccant/defoliant paraquat (1,1′-dimethyl-4,4′-bipyridinium-ion) derived from application of either the bis(methyl sulfate) or the dichloride salt (both calculated as the cation) in or on dry peas at 0.3 part per million (ppm) for an additional one and one-half-year period, to May 15, 2000. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on dry peas. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (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.

DATES: This regulation becomes effective October 9, 1998. Objections and requests for hearings must be received by EPA, on or before December 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300726], 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–300726], 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 electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300726]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703) 308–9364; e-mail: pemberton.libby@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of August 29, 1997, (62 FR 45748) (FRL–5739–8), which announced that on its own initiative and under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of paraquat (1,1′-dimethyl-4,4′-bipyridinium-ion) in or on dry peas at 0.3 ppm, with an expiration date of November 15, 1998. EPA established the tolerance because 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.

EPA received a request to extend the use of paraquat dichloride for desiccation of weeds infesting green peas grown for seed and dry peas for this year's growing season due to emergency situations occuring in Idaho, Oregon, and Washington, as well as, use for the first year in Montana and North Dakota. After having reviewed the submissions, EPA concurs that emergency conditions exist for these states. EPA has authorized under FIFRA section 18 the use of paraquat dichloride on green peas grown for seed and dry peas [for desiccation of weeds in Idaho, Montana, Oregon, and Washington. A crisis exemption was declared by the state of North Dakota under section 18 of FIFRA for the same use.

EPA assessed the potential risks presented by residues of paraquat (1,1′-dimethyl-4,4′-bipyridinium-ion) in or on dry peas. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule published in the **Federal Register** of August 29, 1997, (62 FR 45748). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional one and one-half-year period. Although this tolerance will expire and is revoked on May 15, 2000, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on dry peas after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. 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.

I. 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 December 8, 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.

II. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300726] (including any

comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis 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 address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule extends a time-limited tolerance that was previously extended by EPA under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). In addition, 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).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: September 29, 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.

§ 180.205—[AMENDED]

2. In § 180.205, in the table for paragraph (b), the entry for "Peas (dry)", change the date "11/15/98" to read "5/15/00".

[FR Doc. 98–27273 Filed 10–8–98; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300741; FRL–6037–1]
RIN 2070–AB78

Cyromazine; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends a time-limited tolerance for residues of the insecticide cyromazine and its metabolites in or on the meat, fat, and meat byproducts of turkeys at 0.05 part per million (ppm) for an additional 18-month period, to April 1, 2000. 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 turkeys. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (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.

DATES: This regulation becomes effective October 9, 1998. Objections and requests for hearings must be received by EPA, on or before December 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300741], 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-300741], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Follow the instructions in Unit II. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 272, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–308–9367; e-mail: ertman.andrew@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of October 22, 1997 (54784-54790) (FRL-5748-9), which announced that on its own initiative under section 408(e) of the FFDCA, 21 U.S.C. 346a(e) and (l)(6), it established a time-limited tolerance for the residues of cyromazine and its metabolites in or on the meat, fat, and meat byproducts of turkeys at 0.05 ppm, with an expiration date of October 1, 1998. EPA established the tolerance because 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.

EPA received a request to extend the use of cyromazine on turkeys this year to control flies. The applicant states that the flies are thought to carry spiking mortality, an acute form of Poult Enteritis Mortality Syndrome (PEMS). PEMS generally occurs during the summer months and strikes young birds between 2 to 6 weeks of age. The onset of the active infection is rapid. Birds become infectious within 24 to 36 hours. Birds stop eating and drinking, and develop diarrhea, losing up to 40% of their body weight in about 4 days. Mortality of more than 20% within a week's time is typical. Total mortality of 50% is not uncommon.

Research into the cause of PEMS has been ongoing since 1991. Isolation of the primary agent has eluded researchers. Evidence suggests that house fly (Musca domestica) can transmit the PEMS disease agent(s). Turkey corona virus and reovirus have been isolated from house flies (adults and larvae, and also fly feces) collected from what was characterized as a PEMS flock in 1996. Researchers also found that feeding house flies to turkeys reproduced the disease. This is the strongest piece of evidence that house flies may play a role in the transmission of PEMS to turkeys.

Alternative products available for use on house flies in poultry houses, such as tetrachlorvinphos, dichlorvos, and dimethoate, are applied as larvicides to the manure accumulated beneath cages or slatted floors. These products were developed for use under caged layers or in chicken houses with slatted floors; however, market turkeys are grown in open-floor environments, and the birds cannot be easily moved from areas needing treatment. One problem with this type of treatment of turkey houses is that rates for larvicidal use of these chemicals are generally the highest rates permitted by the label, creating a concern for the exposed birds. A second problem with these alternatives is that the residual control is 10 to 14 days at best, thus requiring at least two treatments over the course of a brooder house flock cycle. Additionally, it may not be possible to penetrate the breeding substrate with a low pressure sprayer as recommended, due to compaction of the litter. Finally, these alternatives are labeled as adulticides, leaving a question of possible resistance development by house flies to these chemicals.

The disease situation has been in existence for approximately 5 years, however early losses in South Carolina were minimal. Over the last 2 to 3 years, the situation has worsened to a critical point. The applicant asserts that should losses continue, the stability of the turkey industry in South Carolina will be severely compromised and may

never recover. After having reviewed the submission, EPA concurs that emergency conditions exist for this state. EPA has authorized under FIFRA section 18 the use of cyromazine on turkeys for control of flies.

EPA assessed the potential risks presented by residues of cyromazine in or on turkeys. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of October 22, 1997 (54784–54790) (FRL–5748–9). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 18-month period. Although this tolerance will expire and is revoked on October 1, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on turkeys after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. 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.

I. 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 December 8, 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.

II. Public Record and Electronic Submissions

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.

Electronic comments may be sent directly to EPA at:
opp-docket@epamail.epa.gov.

Electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP– 300741]. No 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.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule extends a time-limited tolerance that was previously established by EPA 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). In addition, 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).

Since this extension of an existing time-limited tolerance does not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: October 1, 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.

§ 180.414 [AMENDED]

2. In § 180.414, by amending paragraph (b) by changing the date "10/1/98" to read "4/1/00."

[FR Doc. 98–27270 Filed 10–8–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300714; FRL–6029–5]

RIN 2070–AB78

Mancozeb; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for the combined residues of mancozeb, calculated as zinc ethylenebisdithiocarbamate, and it's metabolite ethylenethiourea (ETU) in or on ginseng. 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 ginseng. This regulation establishes a maximum permissible level for residues of mancozeb and ETU 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 December 31, 1999.

DATES: This regulation is effective October 9, 1998. Objections and requests for hearings must be received by EPA on or before December 8, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300714], 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–300714], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall (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–300714]. 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: Daniel Rosenblatt, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: CM #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9375, e-mail: rosenblatt.dan@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 fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate, and it's metabolite (ETU), in or on ginseng at 2.0 parts per million (ppm). This tolerance will expire and is revoked on December 31, 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 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 Mancozeb on Ginseng and FFDCA Tolerances

On January 29, 1998, the Wisconsin Department of Agriculture, Trade, and Consumer Protection requested that EPA consider issuing a specific emergency exemption under section 18 for the use of mancozeb on Ginseng (*Panax quinquefolium L.*) to control leaf and stem blight. In past years, these problems have resulted in severe yield loss. In addition, growers have not had satisfactory experience with the alternative pesticides registered for this use. Analysis suggests that reliance on the registered alternatives would result in a yield loss of nearly 40%. Following EPA's assessment that growers in Wisconsin may experience a severe economic loss without the availability of mancozeb, the Agency granted an emergency exemption for ginseng growers which permitted the application of mancozeb in the state this past growing season.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of mancozeb and ETU in or on ginseng. 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 FFDCA section 408(e), as provided in FFDCA section 408(l)(6). Although this tolerance will expire and is revoked on October 31, 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 ginseng 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 mancozeb meets EPA's registration requirements for use on ginseng 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 mancozeb 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 Wisconsin to use this pesticide on this crop under FIFRA section 18 of without following all provisions of FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for mancozeb, 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 Adverse Effect Level" or "NOAEL").

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOAEL from the study with the lowest NOAEL 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 NOAEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This one hundredfold MOE is based on the same rationale as the one hundredfold 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 NOAEL) 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/NOAEL 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 ground water 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 less than a year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with FFDCA 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 mancozeb and to make a determination on aggregate exposure, consistent with FFDCA section 408(b)(2), for a time-limited tolerance for residues of mancozeb and ETU on ginseng at 2.0 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 mancozeb and ETU are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, the Agency recommends use of the oral developmental NOAEL for ETU of 5 milligrams/kilogram/day (mg/kg/day) from the rat developmental study. The effect observed at the NOAEL is a threshold finding of delayed ossification in the fetal skeletal structures.

2. *Short- and intermediate-term toxicity.* For short and intermediate term MOE calculations, EPA recommends the use of the maternal NOAEL of 30 mg/kg/day for mancozeb from the rabbit developmental toxicity study. At the maternal Lowest Effect Level (LEL) of 80 mg/kg/day, there were deaths, ataxia, and abortions.

3. *Chronic toxicity.* EPA has established the RfD for ETU at 0.003 mg/kg/day. This RfD is based on a 90-day oral dog toxicity study with a NOAEL of 3 mg/kg/day and an uncertainty factor of 1,000 based on decreased weight gain and hypogenesis of the prostate at the LEL of 30 mg/kg/day.

4. *Carcinogenicity.* Mancozeb has been classified as a Group B2, probable human carcinogen, by the Cancer Peer Review Committee (Committee) and Science Advisory Panel based on evidence of thyroid tumors in mice. The Committee recommended using the Q* approach. The Q* is 0.0601 $(mg/kg/day)^{-1}$ and is based on ETU.

B. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.176) for the residues of mancozeb, in or on a variety of raw agricultural commodities at levels ranging from 0.1 ppm in corn to 65.0 ppm in sugar beet tops. There are no livestock feed items associated with this section 18 use, so no additional livestock dietary burden is expected. Risk assessments were conducted by EPA to assess dietary exposures and risks from mancozeb and ETU as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. Because it is a minor crop, ginseng is not uniquely identified in the data system which the Agency uses to calculate acute and chronic dietary risk. However, in conjunction with the EPA's assessment of a separate registration action involving an ethylenebisdithiocarbamate (EBDC)-pesticide, the chemical family to which mancozeb belongs, the Agency has recently conducted a comprehensive analysis for EBDCs and ETU. That risk assessment evaluated the chronic, acute, and cancer risks associated with the EBDCs and ETU. For that review, EPA used the dietary endpoint for ETU of 5 mg/kg/day. The resulting estimate of high-end dietary exposure for the population subgroup of concern, females 13-plus years old, results in an MOE of 5,000. Maximum field trial data values were used to calculate the MOE. This is considered a partially refined risk estimate; further refinement using anticipated residue values and percent crop-treated data in conjunction with Monte Carlo analysis would result in a lower acute dietary exposure estimate. Thus, in EPA's judgement, the additional dietary burden associated with consumption of ginseng would not lower the MOE to a level that poses a concern.

ii. *Chronic exposure and risk.* In conjunction with the comprehensive EBDC evaluation mentioned above, EPA calculated exposures for the U.S. population and various subgroups including infants and children. For the subgroup U.S. population (48 states), EPA concluded that the anticipated residue contribution (ARC) from food for ETU would be 0.000020 mg/kg/day. This results in an exposure equal to 24% of the RfD. The highest exposure level was calculated for non-nursing infants (<1 year old) exposed at 78% of the RfD.

This assessment used anticipated residue refinement and percent crop treated data for selected commodities. Thus, this assessment should be viewed as partially refined. Further refinement would lower dietary exposure estimates. As mentioned above, although ginseng consumption data was not included in the referenced assessment, the increased exposures associated with this tolerance would not be expected to trigger a level of concern through chronic consumption of treated foods.

2. *From drinking water.* Submitted environmental fate studies suggest that mancozeb has moderate potential to leach into ground water; thus, mancozeb could potentially leach to ground water and runoff to surface water under certain environmental conditions. There are no established Maximum Contaminant Levels (MCL) for residues of mancozeb in drinking water. No Health Advisories (HA) for mancozeb in drinking water have been established. However, EPA has considered the carcinogenic risk resulting from a maximum theoretical drinking water residue of 1.0 parts per billion (ppb) for ETU.

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 NOAEL'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 mancozeb or ETU 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 mancozeb or ETU 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* —i. Mancozeb is currently registered for use on the following residential non-food sites: turf, lawn, trees and shrubs. Mancozeb is not registered for indoor uses. While EPA does not consider that these types of outdoor residential uses constitute a chronic residential exposure scenario, EPA acknowledges that there may be short- and intermediate-term non-occupational exposure scenarios. The Agency has identified toxicity endpoints for short- and intermediate-term residential risk assessment. For this action, the risk to public health from the use of mancozeb is calculated based on it's metabolite/degradate ETU. However, no acceptable reliable exposure data to assess these potential risks are available at this time. Given the time-limited nature of this request, the need to make emergency exemption decisions quickly, the significant scientific uncertainty at this time about how to aggregate non-occupational exposure with dietary exposure, the Agency will make it's safety determination for these tolerances based on those factors which it can reasonably integrate into a risk assessment.

ii. *Short- and intermediate-term exposure and risk.* The amortized ETU cancer risk for the U.S. population for short- and intermediate-term exposure to the turf use of mancozeb has been calculated to be 2.2×10^{-7}.

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 toxicity will be assumed).

Mancozeb is a member of the EBDC class of pesticides. Other members of this class include among others: maneb, metiram, and nabam. EPA does not have, at this time, available data to determine whether mancozeb has a common mechanism of toxicity with other non-EBDC 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, mancozeb does not appear to produce a toxic metabolite produced by other substances.

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

1. *Acute risk.* EPA concludes that the MOE for ETU for the population subgroup of concern (females 13-plus years and older) is 5,000. This MOE is well above the Agency's level of concern for acute dietary exposure.

2. *Chronic risk.* Using the ARC exposure assumptions described above, EPA has concluded that aggregate exposure to ETU from food will utilize 24% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants less than a year old at 78% of the RfD. A complete discussion of the risks posed by mancozeb and ETU to children is presented below. EPA generally has no concern for exposures below 100% of the RfD because the Rfd represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to mancozeb in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to mancozeb or ETU residues.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Although residential exposure data are not available for ornamental lawn uses of mancozeb, EPA notes that large MOEs were calculated for occupational exposure, greater than 19,000 for the most highly exposed group. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to mancozeb residues.

D. Aggregate Cancer Risk for U.S. Population

The cancer risk for mancozeb is based on ETU. The dietary cancer risk is calculated using the Q1* for ETU, 0.0601 $mg/kg/day^{-1}$. EPA calculated that the dietary cancer risk for the EBDC pesticides, including this use on ginseng, is approximately 10^{-6}. This risk assessment is partially refined; incorporation of percent crop treated information for all commodities would

result in a lower dietary exposure estimate. The cancer risk from the residential uses of EBDC pesticides is approximately 10^{-7}. The aggregate cancer risk estimate would not exceed EPA's acceptable level unless the drinking water concentration exceeds 1 ppb. Although surface and ground water monitoring data are limited, California has analyzed 65 wells for ETU from 1986–89, some of which were in maneb (an EBDC) use areas. Only one detection of .725 ppb was reported; however, residues were not present at a subsequent sampling 4 or 5 months later. A single detect of 16 ppb from an area in Illinois of no known EBDC use is believed to be an anomaly and may be derived from a point source. Regardless of this detection above 1 ppb, there is little evidence that any significant subpopulation is exposed at levels above 1 ppb for a significant period of time. Thus, a very conservative estimate of the aggregate (dietary + residential + drinking water) cancer risk from the EBDCs would be 10^{-6}. In EPA's best scientific judgement, the potential exposure from residues on ginseng and in water would not increase cancer risk estimates above EPA's level of concern.

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 mancozeb, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a 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.* For mancozeb, developmental toxicity information indicated that the maternal NOAEL was 32 mg/kg/day, based on decreased food consumption at the lowest observed effect level (LOEL) of 128 mg/kg/day. The developmental (fetal) NOAEL was 128 mg/kg/day, based on dilated ventricles, spinal cord hemorrhage, delayed and incomplete ossification of skull, and ribs at the LOEL of 512 mg/kg/day. In the rabbit developmental toxicity study for mancozeb, the maternal (systemic) NOAEL was 30 mg/kg/day, based on death, ataxia, and abortion at the LOEL of 80 mg/kg/day. The developmental (fetal) NOAEL was greater than 80 mg/kg/day Highest Dose Tested (HDT).

For ETU, there is no adequate rabbit developmental toxicity study available. In the rat, the oral developmental NOAEL is 5 mg/kg/day, based on a threshold finding of delayed ossification in the fetal skeletal structures at the NOAEL.

iii. *Reproductive toxicity study.* From the rat reproductive study, the maternal (systemic) NOAEL for mancozeb was 1.5 mg/kg/day, based on increased liver weight in males and renal pigment in both sexes at the LOEL of 6.0 mg/kg/day. The reproductive (pup) NOAEL was 60 mg/kg/day at the HDT. There is no adequate rat reproduction study for ETU.

iv. *Pre- and post-natal sensitivity.* For this assessment, EPA used the developmental NOAEL of 5 mg/kg/day from the oral developmental study on ETU in the rat to evaluate pre- and post-natal sensitivity. The effect observed involved delayed ossification in the fetal skeletal structures at the NOAEL. However, there is no adequate rabbit developmental toxicity study available. For this reason, EPA is applying an additional tenfold safety factor and requiring a minimum MOE of 1,000. The calculated MOE is 5,000 based on the NOAEL of 5 mg/kg/day. In EPA's judgement, this MOE does not suggest a level of concern.

v. *Conclusion.* As mentioned above, due to the fact that a data gap exists for ETU, EPA has concluded that the risk assessment for developmental and reproductive toxicity should use an additional safety factor in order to protect the population subgroup of concern, females 13+ years old. For this assessment, EPA has determined that a minimum MOE of 1,000 is necessary. Based on the NOAEL of 5 mg/kg/day described above, EPA calculates that the MOE is 5,000. Therefore, in EPA's judgement, the calculated exposure does not suggest a level of concern.

2. *Acute risk.* The acute risk assessment for infants and children used the dietary endpoint for ETU of 5 mg/kg/day. The MOE for the population subgroup of concern, females 13+ years old, is 5,000. Maximum field trial data values were used to calculate the MOE. This is considered a partially refined risk estimate.

3. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to ETU from food will utilize 78% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to mancozeb and ETU in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to mancozeb or ETU residues.

V. Other Considerations

A. Metabolism In Plants and Animals

The nature of the residues of mancozeb and ETU are adequately understood. The regulable residue listed at 40 CFR 180.176 lists the parent compound only, calculated as zinc ethylenebisdithiocarbamate. EPA concludes the residues of concern to be the fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate, and it's metabolite ETU. There are no animal feed items associated with ginseng, therefore a discussion of animal metabolism is not germane to this action.

B. Analytical Enforcement Methodology

Adequate enforcement methodology is available in the Pesticide Analytical Manual (PAM II, Method III) to enforce the current tolerance expression for EBDCs. An enforcement method is also available for ETU. The residues of mancozeb or ETU are not expected to exceed 2.0 ppm in/on ginseng as a result of this FIFRA section 18 use.

C. Magnitude of Residues

EPA concludes that the combined regulable residues of mancozeb and ETU are not expected to exceed 2.0 ppm in or on ginseng as a result of this section 18 use. Secondary residues are not expected in animal commodities as no feed items are associated with this FIFRA section 18 use.

D. International Residue Limits

There are no Codex, Canadian, or Mexican international residue limits, established for residues of mancozeb on ginseng.

E. Rotational Crop Restrictions

Ginseng is not rotated to other crops, therefore, there is no concern for inadvertent residues in rotated crops.

VI. Conclusion

Therefore, a time-limited tolerance is established for the combined residues of mancozeb, calculated as zinc ethylenebisdithiocarbamate, and it's metabolite (ETU) in ginseng at 2.0 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 December 7, 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 and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300714] (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, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

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

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

IX. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a time-limited tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (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.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by

statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create an unfunded Federal mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

X. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

September 30, 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. Section 180.176 is amended by revising the section heading, designating the existing text as paragraph (a) and adding a paragraph heading, adding new paragraph (b), and adding and reserving paragraphs (c) and (d) with headings to read as follows:

§ 180.176 Mancozeb; tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* A time-limited tolerance is established for combined residues of the fungicide mancozeb, calculated as zinc ethylenebisdithiocarbamate and it's metabolite ETU in connection with use of the pesticide under a section 18 emergency exemption granted by EPA. The tolerance will expire and is revoked on the dates specified in the following table.

Commodity	Parts per million	Expiration/Revocation Date
Ginseng	2.0	12/31/99

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 98–27268 Filed 10–8–98; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7697]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

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

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

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed

property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Paperwork Reduction Act

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

Executive Order 12612. Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 64.

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State/location	Community number	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Georgia: Zebulon, city of, Pike County	130529	August 5, 1998	
Illinois: Lexington, city of, McLean County	170500	August 10, 1998	
Georgia: Tattnall County, unincorporated areas	130471	August 13, 1998	August 18, 1978.
Michigan: Rich, township of, Lapeer County	261023	.....do.	
Vermont: Washington, town of, Orange County	500077	August 28, 1998	February 20, 1976.
Alabama: Repton, town of, Conecuh County	010427	August 31, 1998	
New Eligibles—Regular Program			
Missouri: †Green Park, city of, St. Louis County	290668	August 12, 1998	August 2, 1995.
Georgia: Homeland, city of, Carlton County	130291	August 13, 1998	September 21, 1998.
Alabama: Vincent, town of, Shelby County	010292	August 31, 1998	June 15, 1981.
Reinstatements			
Maine: Lyman, town of, York County	230195	July 23, 1975, Emerg.; May 15, 1991, Reg.; February 19, 1997, Susp.; August 17, 1998, Rein.	May 15, 1991.
Iowa: Little Sioux, city of, Harrison County	190145	September 25, 1975, Emerg.; August 19, 1985, Reg.; June 3, 1988, Susp.; August 28, 1998, Rein.	August 19, 1985.
Pennsylvania: Cook, township of, Westmoreland County.	422186	May 28, 1982, Emerg.; April 17, 1985, Reg.; August 5, 1997, Susp.; August 28, 1998, Rein.	August 5, 1997.
Regular Program Conversions			
Region II			
New Jersey: Brick, township of, Ocean County	345285	August 3, 1998, Suspension Withdrawn	August 3, 1998.
New York:			
Hermon, village of, Lawrence County	361464	.....do	Do.
Lee, town of, Oneida County	360532	.....do	Do.
Region III			
Delaware:			
New Castle County, unincorporated areas	105085	.....do	Do.

State/location	Community number	Effective date of eligibility	Current effective map date
Newark, city of, New Castle County	100025	.....do	Do.
Pennsylvania: St. Marys, city of, Elk County	420446	.....do	Do.
Virginia: Rappahannock County, unincorporated areas.	510128	.....do	Do.
Regular Program Conversions			
Region IV			
North Carolina: Whiteville, city of, Columbus County	370071	.....do	Do.
Region V			
Michigan:			
Cadillac, city of, Wexford County	260247	.....do	Do.
Selma, township of, Wexford County	260757	.....do	Do.
Region V			
Ohio: Champaign County, unincorporated areas	390055	.....do	Do.
Wisconsin:			
Oconto County, unincorporated areas	550294	.....do	Do.
Westfield, village of, Marquette County	550269	.....do	Do.
Region VI			
Louisiana: Greenwood, town of, Caddo Parish	220292	.....do	Do.
Region VI			
Oklahoma: Allen, town of, Pontotoc and Hughes Counties.	400174	.....do	Do.
Region IX			
California:			
Agoura Hills, city of, Los Angeles County	065072	.....do	Do.
Colusa, city of, Colusa County	060023	.....do	Do.
Colusa County, unincorporated areas	060022	.....do	Do.
Hawaii: Maui County, unincorporated areas	150003	.....do	Do.
Region X			
Oregon: Troutdale, city of, Multnomah County	410184	.....do	Do.
Region I			
Maine: Union, town of, Knox County	230080	August 17, 1998 Suspension Withdrawn	August 17, 1998.
Region II			
New York: Canton, town of, St. Lawrence County	361172	.....do	Do.
Region IV			
North Carolina: Haywood County, unincorporated areas.	370120	.....do	Do.
Region V			
Michigan: Clinton, charter township of, Macomb County.	260121	.....do	Do.
Region VI			
Texas:			
Enchanted Oaks, city of, Henderson County	481634	.....do	Do.
Gun Barrel City, city of, Henderson County	480328	.....do	Do.
Henderson County, unincorporated areas	481174	.....do	Do.
Region IX			
California:			
San Jose, city of, Santa Clara County	060349	.....do	Do.
Santa Clara County, unincorporated areas	060337	.....do	Do.
Oregon: Lincoln City, city of, Lincoln County	410130	.....do	Do.

[1] The City of Green Park has adopted the St. Louis County (CID #290327) Flood Insurance Rate Map dated August 2, 1995, panels 312 and 315.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein—Reinstatement; Susp.—Suspension; With.—Withdrawn; NSFHA—Non Special Flood Hazard Area.

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

Issued: September 28, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–27243 Filed 10–8–98; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7698]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule identifies a community where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that is suspended on the effective date listed within this rule because of failure to enforce floodplain management requirements of the program. If FEMA receives

documentation of remedial measures taken prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The effective date of the community's suspension is the third date ("Susp.") listed in the fourth column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

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

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The community listed in this document no longer meets the statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the community will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, the community may submit the required documentation of the remedial measures taken after this rule is published but prior to the actual suspension date. The community will not be suspended and will continue its eligibility for the sale of insurance. A notice withdrawing the suspension of the community will be published in the Federal Register.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in the community by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the community listed on the date shown in the last column.

The Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because the community listed in this final rule have been adequately notified.

This community received a 90-day and two 30-day notifications addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Asssociate Director certified that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

Regulatory Classification

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

Paperwork Reduction Act

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

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

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

§ 64.6 [Amended]

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

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Region V				
Illinois:				
Washington Park, Village of, St. Clair County	170638	March 12, 1974, Emerg June 15, 1979, Reg Sept. 25, 1998, Susp	June 15, 1979	September 25, 1998.

State/location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
Milan, Village of, Rock Island County	170590	April 3, 1975, Emerg March 18, 1980, Reg September 25, 1998, Susp	Nov. 5, 1986	September 25, 1998.

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension.

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

Issued: September 28, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–27244 Filed 10–8–98; 8:45 am]

BILLING CODE 6718–21–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

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

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Executive date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No. 7248).	Unincorporated Areas.	May 14, 1998, May 21, 1998, Arizona Republic.	The Honorable Janice K. Brewer, Chairman, Maricopa County, Board of Supervisors, 301 Jefferson Street, Phoenix, Arizona 85003.	April 16, 1998	040037
Maricopa (FEMA Docket No. 7248).	City of Phoenix ...	May 12, 1998, May 19, 1998, Arizona Republic.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	April 7, 1998	040051
Maricopa (FEMA Docket No. 7248).	City of Phoenix ...	May 14, 1998, May 21, 1998, Arizona Republic.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, 11th Floor, Phoenix, Arizona 85003–1611.	April 16, 1998	040051
Pima (FEMA Docket No. 7248).	City of Tucson	May 21, 1998, May 28, 1998, Arizona Daily Star.	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726.	April 17, 1998	040076
California:					
Los Angeles (FEMA Docket No. 7248).	City of Montebello	May 21, 1998, May 28, 1998, Montebello Messenger.	The Honorable Art Payan, Mayor, City of Montebello, Montebello, California 90640.	April 21, 1998	060141
Shasta (FEMA Docket No. 7248).	City of Redding ...	May 22, 1998, May 29, 1998, Record Searchlight.	The Honorable Ken Murray, Mayor, City of Redding, 760 Parkview Avenue, Redding, California 96001.	August 27, 1998	060360
San Diego (FEMA Docket No. 7248).	Unincorporated Areas.	May 8, 1998, May 15, 1998, Vista Press.	The Honorable Greg Cox, Chairman, San Diego County, Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	August 13, 1998	060284
Santa Barbara (FEMA Docket No. 7248).	Unincorporated Areas.	May 19, 1998, May 26, 1998, Santa Barbara News Press.	The Honorable Gail Marshall, Chairperson, Santa Barbara County, Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.	August 24, 1998	060331
Sonoma (FEMA Docket No. 7248).	Unincorporated Areas.	April 30, 1998, May 7, 1998, Sonoma County Independent.	The Honorable Paul Kelley, Chairman, Sonoma County,. Board of Supervisors, 575 Administration Drive, Room 100A, Santa Rosa, California 95403.	March 31, 1998 ...	060375
Solano (FEMA Docket No. 7248).	City of Vallejo	May 6, 1998, May 13, 1998, Vallejo Times Herald.	The Honorable Gloria Exline, Mayor, City of Vallejo, P.O. Box 3068, Vallejo, California 94590.	April 1, 1998	060374
San Diego (FEMA Docket No. 7248).	City of Vista	May 8, 1998, May 15, 1998, Vista Press.	The Honorable Gloria McClellan, Mayor, City of Vista, P.O. Box 1988, Vista, California 92085.	August 13, 1998	060297
Sonoma (FEMA Docket No. 7248).	Town of Windsor	April 29, 1998, May 6, 1998, The Times.	The Honorable Sam Salmon, Mayor, Town of Windsor, P.O. Box 100, Windsor, California 95492.	March 31, 1998 ...	060761
Colorado:					
Jefferson and Adams (FEMA Docket No. 7248).	City of Arvada	May 7, 1998, May 14, 1998, Arvada Jefferson Sentinel.	The Honorable Robert Frie, Mayor, City of Arvada, City Hall, 8101 Ralston Road, Arvada, Colorado 80002.	August 12, 1998	085072
Douglas (FEMA Docket No. 7248).	Unincorporated Areas.	May 21, 1998, May 28, 1998, The Denver Post.	The Honorable M. Michael Cooke, Chairman, Douglas County Board of Commissioners, 101 Third Street, Castle Rock, Colorado 80104.	May 4, 1998	080049
Douglas (FEMA Docket No. 7248).	Town of Parker ...	May 21, 1998, May 28, 1998, The Denver Post.	The Honorable Gary Lanter, Mayor, Town of Parker, 20120 East Main Street, Parker, Colorado 80138.	May 4, 1998	080310
Nevada:					
Clark (FEMA Docket No. 7248).	City of Las Vegas	May 1, 1998, May 8, 1998, Las Vegas Review Journal.	The Honorable Jan Laverty Jones, Mayor, City of Las Vegas, 400 East Stewart Avenue, Las Vegas, Nevada 89101.	March 31, 1998 ...	325276

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Executive date of modification	Community No.
New Mexico:					
Bernalillo (FEMA Docket No. 7248).	City of Albuquerque.	April 29, 1998, May 6, 1998, Albuquerque Journal.	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	March 25, 1998 ...	350002
Bernalillo (FEMA Docket No. 7248).	City of Albuquerque.	May 21, 1998, May 28, 1998, Albuquerque Journal.	The Honorable Jim Baca, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	April 24, 1998	350002
Bernalillo (FEMA Docket No. 7248).	City of Albuquerque.	May 22, 1998, May 29, 1998, Albuquerque Journal.	The Honorable Jim Baca, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	April 24, 1998	350002
Oklahoma:					
Tulsa (FEMA Docket No. 7248).	City of Tulsa	April 29, 1998, May 6, 1998, Tulsa World.	The Honorable M. Susan Savage, Mayor, City of Tulsa, City Hall, 200 Civic Center, Tulsa, Oklahoma 74103.	April 7, 1998	405381
Texas:					
Archer (FEMA Docket No. 7248).	Unincorporated Areas.	April 29, 1998, May 6, 1998, Wichita Falls Times Record News.	The Honorable Paul Wylie, Archer County Judge, P.O. Box 458, Archer City, Texas 76351.	April 16, 1998	481078
Brazos (FEMA Docket No. 7248).	City of Bryan	May 20, 1998, May 27, 1998, Bryan-College Station Eagle.	The Honorable Lonnie Stabler, Mayor, City of Bryan, P.O. Box 1000, Bryan, Texas 77805.	May 4, 1998	480082
Collin (FEMA Docket No. 7248).	Unincorporated Areas.	April 29, 1998, May 6, 1998, Plano Star Courier.	The Honorable Ron Harris, Collin County Judge, Commissioners Court, Collin County Courthouse, McKinney, Texas 75069.	March 31, 1998 ...	480130
Collin (FEMA Docket No. 7248).	Unincorporated Areas.	May 15, 1998, May 22, 1998, Frisco Enterprise.	The Honorable Ron Harris, Collin County Judge, 210 South McDonald Street, McKinney, Texas 75069.	April 7, 1998	480130
Denton (FEMA Docket No. 7248).	City of Corinth	May 20, 1998, May 27, 1998, Lake Cities Sun.	The Honorable Shirley Spellerberg, Mayor, City of Corinth, 2003 South Corinth, Corinth, Texas 76205.	April 30, 1998	481143
Tarrant (FEMA Docket No. 7248).	City of Forest Hill	May 21, 1998, May 28, 1998, Forest Hill News.	The Honorable Bill Wilson, Mayor, City of Forest Hill, 6800 Forest Hill Drive, Forest Hill, Texas 76104.	April 20, 1998	480595
Fort Bend (FEMA Docket No. 7248).	Unincorporated Areas.	April 29, 1998, May 6, 1998, Fort Bend Star.	The Honorable Michael D. Rozell, Fort Bend County Judge, 301 Jackson Street, Suite 719, Richmond, Texas 77469.	April 1, 1998	480228
Collin (FEMA Docket No. 7248).	City of Frisco	May 15, 1998, May 22, 1998, Frisco Enterprise.	The Honorable Kathy Seei, Mayor, City of Frisco, P.O. Drawer 1100, Frisco, Texas 75034.	April 7, 1998	480134
Collin (FEMA Docket No. 7248).	City of Frisco	May 22, 1998, May 29, 1998, Frisco Enterprise.	The Honorable Kathy Seei, Mayor, City of Frisco, P.O. Drawer 1100, Frisco, Texas 75034.	April 30, 1998	480134
Harris (FEMA Docket No. 7248).	City of Houston ...	May 22, 1998, May 29, 1998, Houston Chronicle.	The Honorable Lee P. Brown, Mayor, City of Houston, 901 Bagby, Houston, Texas 77002.	August 27, 1998	480296
Collin (FEMA Docket No. 7248).	City of Plano	April 29, 1998, May 6, 1998, Plano Star Courier.	The Honorable John Longstreet, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086–0358.	March 31, 1998 ...	480140
Harris (FEMA Docket No. 7248).	City of South Houston.	May 22, 1998, May 29, 1998, Houston Chronicle.	The Honorable Cipirano Romero, Mayor, City of South Houston, 1018 Dallas Street, South Houston, Texas 77587.	August 27, 1998	480311
Fort Bend (FEMA Docket No. 7248).	City of Sugar Land.	April 29, 1998, May 6, 1998, Fort Bend Star.	The Honorable Dean Hrbacek, Mayor, City of Sugar Land, P.O. Box 110, Sugar Land, Texas 77487–0110.	April 1, 1998	480234
Wichita (FEMA Docket No. 7248).	Unincorporated Areas.	April 29, 1998, May 6, 1998, Wichita Falls Times Record News.	The Honorable Rick Gipson, Wichita County Judge, Wichita County Courthouse, Room 202, Wichita Falls, Texas 76301.	April 16, 1998	481189

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Executive date of modification	Community No.
Archer and Wichita (FEMA Docket No. 7248).	City of Wichita Falls.	April 29, 1998, May 6, 1998, Wichita Falls Times Record News.	The Honorable Kay Yeager, Mayor, City of Wichita Falls, 1300 Seventh Street, Wichita Falls, Texas 76301.	April 16, 1998	480662

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

Dated: September 29, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–27242 Filed 10–8–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7256]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

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

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					
Maricopa	City of Avondale	September 4, 1998, September 11, 1998, *Arizona Republic.*	The Honorable Thomas S. Morales, Jr., Mayor, City of Avondale, 525 North Central Avenue, Avondale, Arizona 85323.	August 19, 1998	040038
Maricopa	Town of Gilbert ...	August 11, 1998, August 18, 1998, *Gilbert Tribune.*	The Honorable Cynthia Dunham, Mayor, Town of Gilbert, 1025 South Gilbert Road, Gilbert, Arizona 85296.	July 15, 1998	040044
Maricopa	Unincorporated Areas.	August 11, 1998, August 18, 1998, *Arizona Republic.*	The Honorable Janice K. Brewer, Chairman, Maricopa County, Board of Supervisors, 301 West Jefferson Street, Tenth Floor, Phoenix, Arizona 82003.	July 15, 1998	040037
Maricopa	City of Mesa	August 20, 1998, August 27, 1998, *Arizona Republic.*	The Honorable Wayne Brown, Mayor, City of Mesa, P.O. Box 1466, Mesa, Arizona 85211.	July 20, 1998	040048
California:					
Santa Clara ...	City of Gilroy	August 7, 1998, August 14, 1998, *The Dispatch.*	The Honorable K. A. Mike Gilroy, Mayor, City of Gilroy, 7351 Rosanna Street, Gilroy, California 95020.	July 9, 1998	060340
Santa Barbara	Unincorporated Areas.	August 7, 1998, August 14, 1998, *Santa Barbara News Press.*	The Honorable Gail Marshall, Chairperson, Santa Barbara County, Board of Supervisors, 105 East Anapamu Street, Santa Barbara, California 93101.	July 9, 1998	060331
Santa Clara ...	Unincorporated Areas.	August 7, 1998, August 14, 1998, *The San Jose Mercury News.*	The Honorable Blanca Alverado, Chairperson, Santa Clara County, Board of Supervisors, 70 West Hedding Street, East Wing, Tenth Floor, San Jose, California 95110.	July 9, 1998	060337
Ventura	Unincorporated Areas.	August 12, 1998, August 19, 1998, *Ventura County Star.*	The Honorable Judy Mikels, Chairperson, Ventura County, Board of Supervisors, 3855–F Alamo Street, Simi Valley, California 93063.	July 13, 1998	060413
Colorado: Rio Blanco.	Town of Meeker ..	August 20, 1998, August 27, 1998, *Meeker Herald.*	The Honorable Bill Dunham, Mayor, Town of Meeker, P.O. Box 38, Meeker, Colorado 81641.	August 6, 1998 ...	080151
Hawaii: Maui County.	Unincorporated Areas.	August 7, 1998, August 14, 1998, *Maui News.*	The Honorable Linda Lingle, Mayor, Maui County, 200 South High Street, Wailuku, Maui, Hawaii 96793.	July 13, 1998	150003
Nebraska: Sarpy ...	Unincorporated Areas.	September 16, 1998, September 23, 1998, *The Papillion Times.*	The Honorable Tim Gray, Chairman, Sarpy County, Board of Commissioners, County Courthouse, 1210 Golden Gate Drive, Suite 1118, Papillion, Nebraska 68046.	August 14, 1998	310190
New Mexico:					
Bernalillo	City of Albuquerque.	September 4, 1998, September 11, 1998, *Albuquerque Journal.*	The Honorable Jim Baca, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	July 17, 1998	350002
Bernalillo	Unincorporated Areas.	September 4, 1998, September 11, 1998, *Albuquerque Journal.*	The Honorable Tom Rutherford, Chairman, Bernalillo County, Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	July 17, 1998	350001
Oklahoma:					
Oklahoma	City of Oklahoma City.	August 27, 1998, September 3, 1998, *Daily Oklahoman.*	The Honorable Ronald Norick, Mayor, City of Oklahoma City, 200 North Walker, Suite 302, Oklahoma City, Oklahoma 73102.	August 4, 1998, ..	405378
Tulsa	City of Tulsa	September 23, 1998, September 30, 1998, *Tulsa World.*	The Honorable M. Susan Savage, Mayor, City of Tulsa, City Hall, 200 Civic Center, Tulsa, Oklahoma 74103.	August 14, 1998	405381

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas:					
Tarrant	City of Mansfield	August 20, 1998, August 27, 1998, *Mansfield News-Mirror.*	The Honorable Harry David, Mayor, City of Mansfield, 1305 East Broad Street, Mansfield, Texas 76063.	August 4, 1998 ...	480606
Montgomery ...	Unincorporated Areas.	August 14, 1998, August 21, 1998, Conroe Courier.	The Honorable Alan Sadler, Montgomery County Judge, 301 North Thompson Street, Suite 210, Conroe, Texas 77301.	July 14, 1998	480483
McLennan	City of Waco	August 4, 1998, August 11, 1998, *Waco Tribune-Herald.*	The Honorable Michael D. Morrison, Mayor, City of Waco, P.O. Box 2570, Waco, Texas 76702–2570.	July 9, 1998	480461

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

Dated: September 29, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–27241 Filed 10–8–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

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

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
CALIFORNIA	
Humboldt County (Unincorporated Areas) (FEMA Docket No. 7246)	
Eastside Channel:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 400 feet south of intersection of Market Street and Van Ness Avenue	*28
Williams Creek:	
At confluence with Salt River	*28
At Rose Avenue	*47
Approximately 1,150 feet upstream of Grizzly Bluff Road	*65
Janes Creek:	
Approximately 800 feet upstream of Samoa Road	*7
Approximately 140 feet upstream of Lumberyard Road	*24
Mad River (At Blue Lake):	
Approximately 6,000 feet upstream of confluence with Noisy Creek	*65
At Hatchery Road	*86
Dave Power's Creek:	
Approximately 100 feet upstream of an unnamed road (log bridge)	*72
Approximately 2,150 feet upstream of confluence with Mad River	*75
Maps are available for inspection at the Humboldt County Planning Department, 3015 H Street, Eureka, California.	
COLORADO	
Wellington (Town), Larimer County (FEMA Docket No. 7246)	
Coal Creek:	
Approximately 2,000 feet downstream of Fourth Street	*5,182
Approximately 1,000 feet north of Windsor Ditch	*5,222
Maps are available for inspection at the Town of Wellington Town Hall, 3735 Cleveland Avenue, Wellington, Colorado.	

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

Dated: September 29, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–27240 Filed 10–8–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–115; FCC 98–239]

Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The order released September 24, 1998 extends the deadline by which all telecommunications carriers must implement effective electronic safeguards to protect against unauthorized access to CPNI. This deadline was established in the Commission's CPNI Report and Order in this proceeding. The Commission is currently reviewing a number of petitions for reconsideration that seek modification of the electronic safeguards requirement, and believes that postponing the deadline for implementation of these safeguards until after the Commission acts upon the reconsideration petitions is in the public interest.

EFFECTIVE DATE: November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Brent Olson, Attorney, Common Carrier Bureau, Policy and Program Planning Division, (202) 418–1580 or via the Internet at bolson@fcc.gov. Further information may also be obtained by calling the Common Carrier Bureau's TTY number: 202–418–0484. For additional information concerning the information collections contained in this Order 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 Order adopted September 23, 1998, and released September 24, 1998. The full text of this Order 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/fcc98239.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.

Regulatory Flexibility Certification

The changes adopted in this Order do not affect our certification in the CPNI Report and Order.

Synopsis of Order

1. On February 26, 1998, the Commission released an Order, 63 FR 20326, April 24, 1998 ("CPNI Report and Order") promulgating regulations to implement the statutory obligations of section 222 of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, which was enacted to protect the confidentiality of customer proprietary network information (CPNI). In that order, the Commission established January 26, 1999 as the deadline by which all telecommunications carriers must implement effective electronic safeguards to protect against unauthorized access to CPNI. For the reasons discussed below, we extend that deadline.

I. Background

2. In the CPNI Report and Order, the Commission concluded that "all telecommunications carriers must establish effective safeguards to protect against unauthorized access to CPNI by their employees or agents, or by unaffiliated third parties." Specifically, the Commission required that carriers develop and implement software systems that "flag" customer service records in connection with CPNI and that carriers maintain an electronic audit mechanism ("audit trail") that tracks access to customer accounts. The Commission also required that carriers' employees be trained as to when they can and cannot access customers' CPNI; that carriers establish a supervisory review process that ensures compliance with CPNI restrictions when conducting outbound marketing; and that each carrier submit a certification signed by a current corporate officer attesting that he/she has personal knowledge that the carrier is in compliance with our requirements on an annual basis. Because the Commission anticipated that carriers would need time to conform their data systems and operations to comply with the software flags and electronic audit mechanisms required by the Order, enforcement of these safeguards was deferred until eight months from when the rules became effective, specifically January 26, 1999.

3. Following the release of the CPNI Report and Order, several petitioners sought reconsideration of a variety of issues, including the decision to require carriers to implement the use of software flags and audit trails. We are currently reviewing these petitions. In addition, a number of carriers, representing virtually the entire industry affected by the CPNI rules, expressed concern about meeting the January deadline. GTE has also proposed some alternative methods of implementing safeguards that GTE claims will accomplish the goals of the Act without unduly burdening the industry.

II. Discussion

4. We conclude that it serves the public interest to extend the deadline by which we will begin to enforce our rules requiring software flags and electronic

audit mechanisms so that we may consider recent proposals to tailor our requirements more narrowly and to reduce burdens on the industry while serving the purposes of the CPNI rules. As an initial matter, we note that all segments of the industry unanimously oppose these requirements as adopted. We emphasize that the circumstances presented here are both unique and compelling. We recognize that it will take time and effort to implement these requirements, and we believe that postponement of compliance until the Commission provides additional guidance may promote more efficient and effective deployment of resources spent on meeting the new CPNI requirements set forth in the statute and our implementing rules. By delaying the date of enforcement until after the Commission acts upon reconsideration petitions, parties will have the opportunity to comment on GTE's proposed alternatives or make proposals of their own.

5. We emphasize that this extension of time is only temporary and that ultimately carriers will be required to comply with whatever electronic safeguards the Commission deems appropriate in this proceeding. We recognize that software flags and electronic audit mechanisms may be more costly to implement when older systems are involved. To the extent that new systems are being deployed during the pendency of the reconsideration petitions, however, we expect that carriers will install electronic flags and audit trails at the time the system is deployed in order to avoid the increased cost of having to retrofit systems in the future to come into compliance. We also note that this extension applies only to the electronic safeguards requirement, and that compliance with the rest of the rules elaborated in the CPNI Report and Order is still required. In particular, our action in this Order does not relieve carriers of the underlying obligation to use CPNI in accordance with section 222 and the Commission's implementing rules.

III. Ordering Clauses

6. Accordingly, it is ordered, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), and 303(r), and § 1.429(k) of the Commission's rules, 47 CFR 1.429(k), that we will not seek enforcement actions against carriers regarding compliance with the CPNI software flagging and audit trail requirements as set forth in 47 CFR 64.2009 (a) and (c) until six months after the release date of the Commission's order on reconsideration addressing these issues in CC Docket No. 96–115.

List of Subjects in 47 CFR Part 64

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–27190 Filed 10–8–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–106; RM–9277]

Radio Broadcasting Services; Missoula, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 290A to Missoula, Montana, in response to a petition filed by Dale A. Ganske d/b/a L. Topaz Enterprises, Inc. *See* 63 FR 37090, July 9, 1998. The coordinates for Channel 290A at Missoula are 46–51–42 and 114–00–30. Canadian concurrence has been obtained for this allotment. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 16, 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. 98–106, adopted September 23, 1998, and released October 2, 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:

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel 290A at Missoula.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 98–27065 Filed 10–8–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Dockets No. 90–176, RM–7053 and RM–8040]

FM Broadcasting Services; Arnold and Columbia, California

AGENCY: Federal Communications Commission.

ACTION: Final Rule; petition for reconsideration.

SUMMARY: The Commission denied the petition for partial reconsideration, filed by Clarke Broadcasting Corporation, of the *Memorandum Opinion and Order* in MM Docket No. 90–176, 57 FR 45,577, published October 2, 1992. It also affirmed the *Memorandum Opinion and Order*, which, in reversing the *Report and Order* in this docket, 56 FR 26,367, published June 7, 1991, allotted Channel 255A to Columbia and Channel 240A to Arnold. With this action, the proceeding is terminated.

DATE: Effective October 9, 1998.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order*, MM Docket No. 90–176, adopted September 30, 1998 and released October 2, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in Commission's Reference Center (Room 239), 1919 M Street, N.W., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, 2100 M Street, N.W., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles W. Logan,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–27064 Filed 10–8–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298–8055–02; I.D. 082798B]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod

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

ACTION: Reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Bering Sea and Aleutian Islands management area (BSAI) Pacific cod from trawl catcher/processors and vessels using jig gear to vessels using hook-and-line or pot gear. These actions are necessary to allow the 1998 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective October 6, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(5), the Pacific cod TAC for the BSAI was established as 210,000 mt by the Final 1998 Harvest Specifications for Groundfish for the BSAI (63 FR 12689, March 16, 1998). Of this amount, 3,885 mt was allocated to vessels using jig gear, 45,649 mt to trawl catcher vessels, 45,649 mt to trawl catcher/processors, and 99,068 mt to vessels using hook-and-line or pot gear.

On September 4, 1998, NMFS published a request for public comment on a proposed reallocation of BSAI Pacific cod from trawl catcher/processors to either trawl catcher vessels and/or to vessels using hook-and line or pot gear (63 FR 47218, September 4, 1998). Five letters of comment were received during the comment period from hook-and-line and trawl catcher/processor industry representatives. No comments were received from trawl catcher vessels expressing interest in the trawl catcher/processor projected unused amount. Trawl catcher/processor representatives expressed an interest in targeting Pacific cod in October and November after the end of the B season pollock fishery. Based on those comments and the expected bycatch of Pacific cod in the continuing pollock, yellowfin sole, and Atka mackerel fisheries, the projected unused amount was reduced from 7,000 mt to 1,500 mt.

Accordingly, the Acting Administrator, Alaska Region, NMFS (Acting Regional Administrator), has determined that trawl catcher/processors will not be able to harvest 1,500 mt of Pacific cod allocated to those vessels under § 679.20(a)(7)(i)(A).

Therefore, in accordance with § 679.20(a)(7)(ii), NMFS apportions 1,500 mt of Pacific cod from trawl catcher/processors to vessels using hook-and-line or pot gear.

The Acting Regional Administrator also has determined that vessels using jig gear will not harvest 3,500 mt of Pacific cod by the end of the year. Therefore, in accordance with § 679.20(a)(7)(iii), NMFS is reallocating the unused amount of 3,500 mt of Pacific cod allocated to vessels using jig gear to vessels using hook-and-line or pot gear.

Classification

This action is taken under 50 CFR 679.20 and is exempt from OMB review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA, has determined, under section 553(b)(B) and (d)(3) of the Administrative Procedure Act and 50 CFR 679.20(b)(3)(iii)(A), that good cause exists for waiving the opportunity for public comment and the 30-day delayed effectiveness period for this action. Fisheries are currently taking place that will be supplemented by this apportionment. Delaying the implementation of this action would be disruptive and costly to these ongoing operations.

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

Dated: October 6, 1998.

Richard W. Surdi,

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

[FR Doc. 98–27232 Filed 10–6–98; 2:36 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 196
Friday, October 9, 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 967

[Docket No. FV98–967–1 PR]

Celery Grown In Florida; Proposed Termination of Marketing Order No. 967

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on the termination of the Federal marketing order regulating the handling of celery grown in Florida (order) and the rules and regulations issued thereunder. The Florida celery industry has not operated under the order since its provisions were suspended January 12, 1995. The celery industry has experienced a loss of market share, a significant reduction in the number of producers and handlers has diminished the need for regulating Florida celery, and there is no industry support for reactivating the order. Therefore, there is no need to continue this order.

DATES: Comments must be received by December 8, 1998.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. 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; or E-mail: moabdocket_clerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Southeast Marketing Field Office, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883–2276; telephone (941) 299–4770, Fax: (941) 299–5169; or Anne M. Dec, 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, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 720–2491, Fax: (202) 205–6632.

SUPPLEMENTARY INFORMATION: This proposal is governed by provisions of § 608(16)(A) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act and § 967.85 of the order.

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A 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 proposed rule would terminate the order regulating the handling of celery grown in Florida. Sections 967.85 and 967.86 of the order contain the authority and procedures for termination.

The order was initially established in 1965 to help the industry solve specific marketing problems and maintain orderly marketing conditions. It was the responsibility of the Florida Celery Committee (committee), the agency established for local administration of the marketing order, to periodically investigate and assemble data on the growing, harvesting, shipping, and marketing conditions of Florida celery. The committee tried to achieve orderly marketing and improve acceptance of Florida celery through the establishment of volume regulations and promotion activities.

The Florida celery industry has not operated under the marketing order for three years. The order and all of its accompanying rules and regulations were suspended January 12, 1995, through December 31, 1997 (60 FR 2873). Regulations have not been applied under the order since that time, and no committee has been appointed since then.

In 1965, when the marketing order was issued, there were over 41 producers of Florida celery. The earliest handling figures available indicate that in 1983 there were 11 handlers. As of the date of suspension of the order (January 12, 1995), there were six handlers of Florida celery who were subject to regulation under the marketing order and five celery producers within the production area. Currently, there is one producer who is also a handler.

When the order was suspended, all of the committee members and their alternates were named as trustees to oversee the administrative affairs of the order. The Department attempted to contact as many of these trustees as it could with respect to the need for reinstating the marketing order. All of the individuals contacted (10 of the 18 trustees) were in favor of terminating the order. We believe that there is no justification for continuing the current order.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, 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 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 is one handler of Florida celery who would be subject to regulation under the marketing order. This handler is also a producer within the 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 Florida celery producer-handler may be classified as a small entity.

This proposed rule would terminate the order regulating the handling of celery grown in Florida. The order and its accompanying rules and regulations were suspended on January 12, 1995. No regulations have been implemented since then, and there is no indication that such regulations will again be needed.

The industry has been operating without a marketing order since its suspension. Reestablishing the order would mean additional cost to the industry stemming from assessments to maintain the order (the last assessment was $0.01 per crate) and any associated costs generated by regulation. By not reinstating the marketing order, the industry would benefit from avoiding these costs. Regulatory authorities that would be terminated include authority to implement grade, size, container, and inspection requirements and provisions for research and development and volume regulation. Because the industry has been operating without an order for over three years, the termination of the order would have no noticeable effect on either small or large operations.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements under the order were approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0145. When the order was suspended on January 12, 1995, these information collection requirements were also suspended. When the order is terminated, these requirements will be eliminated. There is one handler remaining under the order with an estimated burden of 9.05 hours.

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

The Department attempted to solicit as much industry input on this decision as possible. In addition, this action provides the opportunity for all interested persons to comment on this proposal.

The Department believes that conducting a termination referendum would merely reaffirm the Florida celery industry's continued lack of interest in reactivating the marketing order and that conducting such a referendum would be wasteful of Departmental and public resources.

Therefore, pursuant to § 608c(16)(A) of the Act and § 967.85 of the order, the Department is considering the termination of Marketing Order No. 967, covering celery grown in Florida. If the Secretary decides to terminate the order, trustees would be appointed to continue in the capacity of concluding and liquidating the affairs of the former committee.

Section 608c(16)(A) of the Act requires the Secretary to notify Congress 60 days in advance of the termination of a Federal marketing order. Congress will be so notified upon publication of this proposed termination.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 967

Celery, Marketing agreements, Reporting and recordkeeping requirements.

PART 967—[REMOVED]

For the reasons set forth in the preamble, and under authority of 7 U.S.C. 601–674, 7 CFR part 967 is proposed to be removed.

Dated: October 2, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–27178 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1065

[DA–98–10]

Milk in the Nebraska-Western Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This document invites written comments on a proposal to suspend 11 counties from the marketing area definition of the Nebraska-Western Iowa Federal milk marketing order (Order 65) for the period of November 1, 1998, through December 31, 1999. The action was requested by Gillette Dairy (Gillette) of Rapid City, South Dakota, which contends the suspension is necessary to maintain its milk supply and to remain competitive in selling fluid milk products in the marketing area.

DATES: Comments must be submitted on or before November 9, 1998.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456. Comments may be faxed to (202) 690–0552 or e-mailed to OFB__FMMO__Comments@usda.gov. Reference should be given to the title of action and docket number.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–9368, e-mail address clifford__m__carman@usda.gov.

SUPPLEMENTARY INFORMATION: The Department is issuing this proposed rule in conformance with Executive Order 12866.

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

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing 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. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the

Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service is considering the economic impact of this action on small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a "small business" if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a "small business" if it has fewer than 500 employees. For the purposes of determining which dairy farms are "small businesses," the $500,000 per year criterion was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most "small" dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of April 1998, which is the most recent representative month, 1,649 dairy farmers were producers under Order 65. Of these producers, 1,573 producers (i.e., 95%) were considered small businesses having monthly milk production under 326,000 pounds. A further breakdown of the monthly milk production of the producers on the order during April 1998 was as follows: 1,001 produced less than 100,000 pounds of milk; 445 produced between 100,000 and 200,000; 127 produced between 200,000 and 326,000; and 76 produced over 326,000 pounds. During the same month, eight handlers were pooled under the order. One was considered a small business.

Pursuant to authority contained in the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), this proposal would suspend 11 counties in the western panhandle of Nebraska from the marketing area definition of Order 65. The Nebraska counties are Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, and Sioux.

Gillette, the proponent of the proposed action, estimates that its sales in the counties represent 65% to 70% of total fluid milk sales in the 11 counties. Gillette explains that a loss of sales in an unregulated marketing area has resulted in its regulation under Order 65 without any appreciable increase in sales in the Order's marketing area. The handler contends the proposed action is necessary to maintain its milk supply and to remain competitive in selling fluid milk products in the marketing area.

Gillette was pooled under Order 65 during the months of January through May 1998. For the period of February through May 1998, Order 65 price data shows that the average uniform price to producers was $13.34 per hundredweight. If Gillette would not have been a regulated handler under Order 65 during this period, the average uniform price to producers would have been about $13.31 per hundredweight. Thus, the regulation of Gillette for the February through May 1998 period resulted in an increase in the average uniform price of 3 to 4 cents per hundredweight.

There are three handlers other than Gillette that possibly have sales into the 11 Nebraska counties. The handlers are Meadow Gold of Lincoln, Nebraska; Roberts Dairy in Omaha, Nebraska; and Meadow Gold in Greeley, Colorado. Roberts Dairy hauls milk for Nebraska Dairy, Inc., which is a distribution facility that is owned by the same principal company that owns Gillette. However, the dairy appears to be a separate entity from Gillette. Market information indicates that if these three handlers have sales into the 11 counties the volume is relatively small. Because these handlers have relatively small sales, if any, into the 11 counties, the proposed rule is projected to not have a significant economic impact. The exact impact of the proposed rule on these handlers would be dependent upon the specific sales the handlers chose to pursue.

The July 1996 population estimate and the December 1992 fluid milk per capita consumption data show that the 11 Nebraska counties represent a small amount of the population and fluid milk consumption in the State of Nebraska and in the entire Order 65 marketing area. The 11 counties represent about 6% of the population and fluid milk consumption in the State of Nebraska and about 5% of the population and fluid milk consumption in the Order 65 marketing area.

Gillette was a fully regulated handler under the Black Hills, South Dakota, Federal milk marketing order prior to its termination at the request of the Black Hills Milk Producers. After termination of the Black Hills order, Gillette for some time was a partially regulated handler under three Federal milk marketing orders: Eastern South Dakota (Order 76), Eastern Colorado (Order 137), and Order 65. From January 1998 through May 1998, Gillette was a fully regulated handler under Order 65 because its fluid milk sales in the marketing area represented more than 15 percent of its receipts.

When Gillette was a partially regulated handler, it paid to the producers supplying its plant at least the full Class use value of its milk each month. Thus, Gillette had no further obligation to the producer settlement funds of the orders under which it was a partially regulated handler. However, as a fully regulated handler, Gillette is required to pay the difference between its Class use value and the marketwide Class use value to the Order 65 producer settlement fund. This payment, Gillette contends, increases its cost for milk and reduces the amount it can pay its producers.

A review of the current reporting requirements was completed pursuant to the paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), and it was determined that this proposed suspension would have little impact on reporting, recordkeeping, or other compliance requirements because these would remain almost identical to the current system. No new forms would need to be proposed.

No other burdens are expected to fall upon the dairy industry as a result of overlapping Federal rules. This proposed regulation does not duplicate, overlap or conflict with any existing Federal rules.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Specifically, interested parties should address the potential impact of the proposed action on both Order 65 producers and producers who supply Gillette as well as the competition that exists for fluid milk sales in the 11 counties between regulated and unregulated handlers. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provisions of the order regulating the handling of milk in the Nebraska-Western Iowa Federal milk marketing area is being considered for the period of November 1, 1998, through December 31, 1999:

In § 1065.2, the words "Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, Sioux".

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Programs, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 30th day after publication of this notice in the **Federal Register**. The comment period is limited to 30 days due to the request for immediate action by the proponent,of this proposed action.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Programs during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed rule would suspend 11 counties from the marketing area definition of the Nebraska-Western Iowa Federal milk marketing order. The counties, which are located in the western panhandle of Nebraska, include Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Kimball, Morrill, Scotts Bluff, Sheridan, and Sioux.

The July 1996 population estimate, which represents the most recent population statistics, shows that the total population for the Order 65 marketing area is 2,000,529 (i.e., 412,167 for Iowa counties and 1,588,362 for Nebraska counties). The population estimate for the entire State of Nebraska is 1,652,093, while the population for the 11 Nebraska counties is 91,194. In addition, the *December 1992 Federal Milk Order Statistics Report* (Per Capita Sales of Fluid Milk Products in Federal Order Markets) indicates that the Nebraska fluid milk per capita consumption is about 20 pounds per person per month. It is estimated that the fluid milk consumption per month within the 11 Nebraska counties is 1,823,880 (20 lbs. * 91,194).

The July 1996 population estimate and the December 1992 fluid milk per capita consumption data show that the 11 Nebraska counties represent a small amount of the population and fluid milk consumption in the State of Nebraska and in the entire Order 65 marketing area. The 11 counties represent about 6% of the population and fluid milk consumption in the State of Nebraska and about 5% of the population and fluid milk consumption in the Order 65 marketing area.

Gillette was a fully regulated handler under the Black Hills, South Dakota, Federal milk marketing order prior to its termination at the request of the Black Hills Milk Producers. After termination of the Black Hills order, Gillette for some time was a partially regulated handler under three Federal milk marketing orders: Eastern South Dakota (Order 76), Eastern Colorado (Order 137), and Order 65. From January 1998 through May 1998, Gillette was a fully regulated handler under Order 65 because its fluid milk sales in the marketing area represented more than 15 percent of its receipts.

When Gillette was a partially regulated handler, it paid to the producers supplying its plant at least the full Class use value of its milk each month. Thus, Gillette had no further obligation to the producer settlement funds of the orders under which it was a partially regulated handler. However, as a fully regulated handler, Gillette is required to pay the difference between its Class use value and the marketwide Class use value to the Order 65 producer settlement fund. This payment, Gillette contends, increases its cost for milk and reduces the amount it can pay its producers.

According to Gillette, marketing conditions in Order 65 have changed significantly since the order was promulgated. Gillette estimates that its sales in the 11 counties represent 65% to 70% of total fluid milk sales in the counties. Gillette explains that a loss of sales in an unregulated marketing area has resulted in its regulation under Order 65 because such sales represented at least 15 percent of its receipts, but without any appreciable increase in sales in the Order's marketing area. Furthermore, the handler states that since its milk supply comes from the Black Hills Milk Producers there is no balancing of milk supply for the plant from Order 65 or any other Federal milk marketing order.

Black Hills Milk Producers also requested that the counties be removed from the Order 65 marketing area definition. The cooperative representing the producers explained that it is dependent on Gillette's survival. It states that the regulation of Gillette under Order 65 has caused its producers hardship by costing them as much as $1.00 per hundredweight during some months. According to the cooperative, this cost results from an agreement that it has with Gillette in which it refunds to Gillette an amount equal to half of the handler's obligation to the producer settlement fund when Gillette is fully regulated. Although the producers pay this amount to Gillette, Order 65 price data for the February through May 1998 period indicates that their monthly pay prices were above the Order 65 uniform price.

The Federal Order Reform Proposed Rule, which was issued on January 21, 1998 (63 FR 4802), recommended excluding the 11 Nebraska counties from the consolidated Central order. The recommendation currently is under consideration. However, Gillette has requested that the proposed action be considered immediately.

Accordingly, it may be appropriate to suspend the aforesaid provisions for the period of November 1, 1998, through December 31, 1999.

List of Subjects in 7 CFR Part 1065

Milk marketing orders.

The authority citation for 7 CFR Part 1065 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: September 23, 1998.

Richard M. McKee,

Deputy Administrator, Dairy Programs.

[FR Doc. 98–27179 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1788

RIN 0572–AA86

RUS Fidelity and Insurance Requirements for Electric and Telecommunications Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to streamline its fidelity and insurance requirements for electric and telecommunications systems. The rule was last revised in 1986, and the proposed revisions are intended to update requirements. The rule proposes a flexible approach to insurance that protects the government's security interest in mortgaged assets and conforms to today's business practices.

DATES: Written comments must be received by RUS or carry a postmark or equivalent by December 8, 1998.

ADDRESSES: Written comments should be addressed to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, 1400 Independence Avenue, SW., Washington, DC 20250–1522. RUS requires a signed original and 3 copies of all comments (7 CFR 1700.4).

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, U.S. Department of Agriculture, Rural Utilities Service, Room 4034 South Bldg., 1400 Independence Avenue, SW., Washington, DC 20250–1522.

Telephone: 202–720–0736. FAX: 202–720–4120. E-mail: fheppe@rus.usda.gov

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This proposed rule is excluded from the scope of Executive Order 12372, Intergovernmental Consultation, which may require consultation with State and local officials. A final rule related notice entitled "Department Programs and Activities Excluded from Executive Order 12372," (50 FR 47034) determined that RUS loans and loan guarantees were not covered by Executive Order 12372.

Executive Order 12866

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all state and local laws and regulations that are in conflict with this rule will be preempted, no retroactive effort will be given to this rule, and, in accordance with section 212 (c) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6912(c)), appeal procedures must be exhausted before an action against the Department or its agencies may be initiated.

Regulatory Flexibility Act Certification

RUS had determined that this proposed rule will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The RUS electric and telecommunications programs provide loans to borrowers at interest rates and terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining federal financing, receive economic benefits that exceed any direct economic costs associated with complying with RUS regulations and requirements. Moreover, this action offers borrowers increased flexibility in determining the appropriate insurance coverage for their organizations which further offsets economic costs.

National Environmental Policy Act Certification

The Administrator of RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Catalog of Federal Domestic Assistance

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance programs under No. 10.850, Rural Electrification Loans and Loan Guarantees, 10.851, Rural Telephone Loans and Loan Guarantees, and 10.852, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402–9325, telephone number (202) 512–1800.

National Performance Review

The regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Information Collection and Recordkeeping Requirements

The recordkeeping and reporting requirements contained in this proposed rule were approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control numbers 0572–0032 and 0572–0031. Send questions or comments regarding any aspect of this collection of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Stop 1522, 1400 Independence Avenue, SW., Washington, DC 20250–1522.

Unfunded Mandates

This rule contains no Federal mandates (under the regulatory provision of Title II of the Unfunded Mandates Reform Act of 1995) for State, local, and tribal governments or the private sector. Thus, this proposed rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

Background

The Rural Utilities Service (RUS) makes and guarantees loans to furnish and improve electric and telecommunications service in rural areas pursuant to the Rural Electrification Act of 1936, as amended, (7 U.S.C. 901 *et seq.*) (RE Act). The security for these loans is generally a first mortgage on the borrower's electric or telecommunications system. In order to maintain the security for government loans, the RUS debt covenants require borrowers to maintain adequate levels of fidelity and insurance coverage. Such coverage is generally carried by any prudent business and required by any prudent lender.

RUS regulations implementing these fidelity and insurance requirements, 7 CFR part 1788, were last issued in 1986. Since that time, the business and regulatory environment of electric and telecommunications utilities have undergone rapid change, and the experience and sophistication of RUS financed systems have increased. RUS has published a number of regulations updating and streamlining various requirements. The proposed regulation is part of this overall effort to modernize requirements in order to improve the delivery of customer service.

On April 29, 1993, at 58 FR 25786, the Rural Electrification Administration (REA), the predecessor agency to RUS, published an advance notice of proposed rulemaking (ANPR) requesting comments on 7 CFR part 1788. The ANPR requested comments on any issue covered by the rule, especially on whether agency requirements are compatible with general industry practice. Thirteen comments were received.

Most commenters strongly recommended replacing specific requirements and levels of coverage with a more flexible standard that would allow borrowers to employ prudent risk management practices or take out insurance in accordance with generally accepted utility industry practice appropriate to utilities of similar size and character.

Consequently, RUS proposes to reduce the specific requirements to a level consistent with loan security and provide borrowers with maximum flexibility by adopting this recommendation. Electric distribution borrowers having the form of mortgage found in 7 CFR part 1718 are currently subject to provisions similar to subpart A of this part. It is proposed that all other borrowers will required to make the first certification under subpart A of this rule at the end of the first complete calendar year after the effective date of this rule. It is contemplated that an insurance provision similar to the proposed subpart A of this rule will be included in all telecommunications mortgages executed by RUS after the effective date of this rule and that all borrowers receiving a telecommunications loan or loan

guarantee after such effective date will be required to execute such a mortgage. A provision has been included in subpart A that proposes to place a requirement on borrowers concerning the reporting of irregularities that is similar to the requirement on Certified Public Accountants in 7 CFR part 1773.

Subparts B and C of this rule will apply to the first contracts covered by the rule that borrowers enter into after the effective date of this rule.

List of Subjects in 7 CFR Part 1788

Electric power, Insurance, Loan programs—communications, Loan programs—energy, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

For the reasons set forth in the preamble, RUS proposes to amend 7 CFR Chapter XVII by revising part 1788 to read as follows:

PART 1788—RUS FIDELITY AND INSURANCE REQUIREMENTS FOR ELECTRIC AND TELECOMMUNICATIONS BORROWERS

Subpart A—Borrower Insurance Requirements

Sec.

Subpart B—Insurance for Contractors, Engineers, and Architects, Electric Borrowers

Subpart C—Insurance for Contractors, Engineers, and Architects, Telecommunications Borrowers

Authority: 7 U.S.C. 901 *et seq.*; 7 U.S.C. 1921 *et seq.*; 7 U.S.C. 6941 *et seq.*

Subpart A—Borrower Insurance Requirements

§ 1788.1 General and definitions.

(a) The standard forms of documents covering loans made or guaranteed by the Rural Utilities Service contain provisions regarding insurance and fidelity coverage to be maintained by each borrower. This part implements those provisions by setting forth the requirements to be met by all borrowers.

(b) As used in this part:

Borrower means any entity with any outstanding loan made or guaranteed by RUS.

Irregularity has the meaning found in § 1773.2.

Loan documents means the loan agreement, notes, and mortgage evidencing or used in conjunction with an RUS loan.

Mortgage means the mortgage, deed of trust, security agreement, or other security document securing an RUS loan.

Mortgaged property means any property subject to the lien of a mortgage.

RUS means the Rural Utilities Service and includes the Rural Telephone Bank.

RUS loan means a loan made or guaranteed by RUS.

(c) RUS may revise these requirements on a case by case basis for borrowers with unusual circumstances.

§ 1788.2 General insurance requirements.

(a) Borrowers will take out, as the respective risks are incurred, and maintain the classes and amounts of insurance in conformance with generally accepted utility industry standards for such classes and amounts of coverage for utilities of the size and character of the borrower and consistent with Prudent Utility Practice. Prudent Utility Practice shall mean any of the practices, methods, and acts which, in the exercise of reasonable judgment, in light of the facts, including but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry in the case of an electric borrower or of the telecommunications industry in the case of a telecommunications borrowers prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result consistent with cost-effectiveness, reliability, safety, and expedition. It is recognized that Prudent Utility Practice is not intended to be limited to optimum practice, method, or act to the exclusion of all others, but rather is a spectrum of possible practices, methods, or act which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with cost-effectiveness, reliability, safety, and expedition.

(b) The foregoing insurance coverage shall be obtained by means of bond and policy forms approved by regulatory authorities having jurisdiction, and, with respect to insurance upon any part of the mortgaged property securing an RUS loan, shall provide that the insurance shall be payable to the mortgagees as their interests may appear by means of the standard mortgagee clause without contribution. Each policy or other contract for such insurance shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least 30 days after written notice to each mortgagee of suspension, cancellation, or termination.

(c) In the event of damage to or the destruction or loss of any portion of the mortgaged property which is used or useful in the borrower's business and which shall be covered by insurance, unless each mortgagee shall otherwise agree, the borrower shall replace or restore such damaged, destroyed, or lost portion so that such mortgaged property shall be in substantially the same condition as it was in prior to such damage, destruction, or loss and shall apply the proceeds of the insurance for that purpose. The borrower shall replace the lost portion of such mortgaged property or shall commence such restoration promptly after such damage, destruction, or loss shall have occurred and shall complete such replacement or restoration as expeditiously as practicable, and shall pay or cause to be paid out of the proceeds of such insurance form all costs and expenses in connection therewith.

(d) Sums recovered under any policy or fidelity bond by the borrower for a loss of funds advanced under a note secured by a mortgage or recovered by any mortgagee or holder of any note secured by the mortgage for any loss under such policy or bond shall, unless applied as provided in the preceding paragraph, be used as directed by the borrower's mortgage.

(e) Borrowers shall furnish evidence annually that the required insurance and fidelity coverage has been in force for the entire year, and that the borrower has taken all steps currently necessary and will continue to take all steps necessary to ensure that the coverage will remain in force until all loans made or guaranteed by RUS are paid in full. Such evidence shall be in a form satisfactory to RUS. Generally a certification included as part of the RUS Financial and Statistical Report filed by the borrower annually (RUS Form 7 or Form 12 for electric borrowers, RUS Form 479 for telecommunications borrowers, or the successors to these forms) is sufficient evidence of this coverage.

§ 1788.3 Flood insurance.

(a) Borrowers shall purchase and maintain flood insurance for buildings in flood hazard areas to the extent available and required under the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001, *et seq.*) The insurance should cover, in addition to the building, any machinery, equipment, fixtures, and furnishings contained in the building.

(b) The National Flood Insurance Program (see 44 CFR part 59 *et seq.*) provides for a standard flood insurance policy; however, other existing insurance policies which provide flood coverage may be used where flood insurance is available in lieu of the standard flood insurance policy. Such policies must be endorsed to provide:

(1) That the insurer give 30 days written notice of cancellation or nonrenewal to the insured with respect to the flood insurance coverage. To be effective, such notice must be mailed to both the insured and RUS and other mortgagees if any and must include information as to the availability of flood insurance coverage under the National Flood Insurance Program, and

(2) That the flood insurance coverage is at least as broad as the coverage offered by the Standard Flood Insurance Policy.

§ 1788.4 Disclosure of irregularities and illegal acts.

(a) Borrowers must immediately report, in writing, all irregularities and all indications or instances of illegal acts in its operations, whether material or not, to RUS and the Office of the Inspector General (OIG). See 7 CFR 1773.9(c)(3) for OIG addresses. The reporting requirements for borrowers are the same as those for CPA's set forth in § 1773.9

(b) Borrowers are required to make full disclosure to the bonding company of the dishonest or fraudulent acts.

§ 1788.5 RUS endorsement required.

In the case of a cooperative or mutual organization, RUS requires that the following:

"Endorsement Waiving Immunity From Tort Liability" be included as a part of each public liability, owned, non-owned, hired automobile, and aircraft liability, employers' liability policy, and boiler policy:

The Insurer agrees with the Rural Utilities Service that such insurance as is afforded by the policy applies subject to the following provisions:

1. The Insurer agrees that it will not use, either in the adjustment of claims or in the defense of suits against the Insured, the immunity of the Insured from tort liability, unless requested by the Insured to interpose such defense.

2. The Insured agrees that the waiver of the defense of immunity shall not subject the Insurer to liability of any portion of a claim, verdict or judgment in excess of the limits of liability stated in the policy.

3. The Insurer agrees that if the Insured is relieved of liability because of its immunity, either by interposition of such defense at the request of the Insured or by voluntary action of a court, the insurance applicable to the injuries on which such suit is based, to the extent to which it would otherwise have been available to the Insured, shall apply to officers and employees of the Insured in their capacity as such; provided that all defenses other than immunity from tort liability which would be available to the Insurer but for said immunity in suits against the Insured or against the Insurer under the policy shall be available to the Insurer with respect to such officers and employees in suits against such officers and employees or against the Insurer under the policy.

§ 1788.6 RUS right to place insurance.

If a borrower fails to purchase or maintain the required insurance and fidelity coverage, the mortgagees may place required insurance and fidelity coverage on behalf and in the name of the borrower. The borrower shall pay the cost of this coverage, as provided in the loan documents.

§ 1788.6–1788.10 [Reserved]

Subpart B—Insurance for Contractors, Engineers, and Architects, Electric Borrowers

§ 1788.11 Minimum insurance requirements for contractors, engineers, and architects.

(a) Each electric borrower shall include the provisions in this paragraph in its agreements with contractors, engineers, and architects, said agreements that are wholly or partially financed by RUS loans or guarantees. The borrower should replace "Contractor" with "Engineer" or "Architect" as appropriate.

1. The Contractor shall take out and maintain throughout the period of this Agreement insurance of the following minimum types and amounts:

a. Worker's compensation and employer's liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to workers' compensation laws of the governing State, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

b. Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

c. Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, non-owned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million each occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

2. The Owner shall have the right at any time to require public liability insurance and property damage liability insurance greater than those required in paragraphs (a)(1)(b) and (a)(1)(c) of this section. In any such event, the additional premium or premiums payable solely as the result of such additional insurance shall be added to the Contract price.

3. The Owner shall be named as Additional Insured on all policies of insurance required in (a)(1)(b) and (a)(1)(c) of this section.

4. The policies of insurance shall be in such form and issued by such insurer as shall be satisfactory to the Owner. The Contractor shall furnish the Owner a certificate evidencing compliance with the foregoing requirements that shall provide not less than 30 days prior written notice to the Owner of any cancellation or material change in the insurance.

(b) Electric borrowers shall also ensure that all architects and engineers working under contract with the borrower have insurance coverage for Errors and Omissions (Professional Liability Insurance) in an amount at least as large as the amount of the architectural or engineering services contract but not less than $500,000.

(c) The borrower may increase the limits of insurance if desired.

(d) The minimum requirement of $1 million of public liability insurance does not apply to contractors performing maintenance work, janitorial-type services, meter reading services, rights-of-way mowing, and jobs of a similar nature. However, borrowers shall ensure that the contractor performing the work has public liability coverage at a level determined to be appropriate by the borrower.

(e) If requested by RUS, the borrower shall provide RUS with a certificate from the contractor, engineer, or architect evidencing compliance with the requirements of this section.

§ 1788.12 Contractors' bonds.

Electric borrowers shall require contractors to obtain contractors' bonds when required by part 1726, Electric System Construction Policies and

Procedures, of this chapter. Surety companies providing contractors' bonds shall be listed as acceptable sureties in the U.S. Department of Treasury Circular No. 570. The circular is maintained through periodic publication in the **Federal Register** and is available on the Internet under ftp://ftp.fedworld.gov/pub/tel/sureties.txt, and on the Department of the Treasury's computer bulletin board at 202–874–6817.

Subpart C—Insurance for Contractors, Engineers, and Architects, Telecommunications Borrowers

§ 1788.46 General.

This subpart sets forth RUS policies for minimum insurance requirements for contractors, engineers, and architects performing work under contracts which are wholly or partially financed by RUS loans or guarantees with telecommunications borrowers.

§ 1788.47 Policy requirements.

(a) Contractors, engineers, and architects performing work for borrowers under construction, engineering, and architectural service contracts shall obtain insurance coverage, as required in § 1788.48, and maintain it in effect until work under the contracts is completed.

(b) Contractors entering into construction contracts with borrowers shall furnish a contractors' bond, except as provided for in § 1788.49, covering all of the contractors' undertaking under the contract.

(c) Borrowers shall make sure that their contractors, engineers, and architects comply with the insurance and bond requirements of their contracts.

§ 1788.48 Contract insurance requirements.

Contracts entered into between borrowers and contractors, engineers, and architects shall provide that they take out and maintain throughout the contract period insurance of the following types and minimum amounts:

(a) Workers' compensation and employers' liability insurance, as required by law, covering all their employees who perform any of the obligations of the contractor, engineer, and architect under the contract. If any employer or employee is not subject to the workers' compensation laws of the governing state, then insurance shall be obtained voluntarily to extend to the employer and employee coverage to the same extent as though the employer or employee were subject to the workers' compensation laws.

(b) Public liability insurance covering all operations under the contract shall have limits for bodily injury or death of not less than $1 million each occurrence, limits for property damage of not less than $1 million each occurrence, and $1 million aggregate for accidents during the policy period. A single limit of $1 million of bodily injury and property damage is acceptable. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(c) Automobile liability insurance on all motor vehicles used in connection with the contract, whether owned, non-owned, or hired, shall have limits for bodily injury or death of not less than $1 million per person and $1 million per occurrence, and property damage limits of $1 million for each occurrence. This required insurance may be in a policy or policies of insurance, primary and excess including the umbrella or catastrophe form.

(d) When a borrower contracts for the installation of major equipment by other than the supplier or for the moving of major equipment from one location to another, the contractor shall furnish the borrower with an installation floater policy. The policy shall cover all risks of damage to the equipment until completion of the installation contract.

§ 1788.49 Contractors' bond requirements.

Construction contracts in amounts in excess of $250,000 for facilities shall require contractors to secure a contractors' bond, on a form approved by RUS, attached to the contract in a penal sum of not less than the contract price, which is the sum of all labor and materials including owner-furnished materials installed in the project. RUS Form 168b is for use when the contract exceeds $250,000. RUS Form 168c is for use when the contractor's surety has accepted a Small Business Administration guarantee and the contract is for $1,000,000 or less. For minor construction contracts under which work will be done in sections and no section will exceed a total cost of $250,000, the borrower may waive the requirement for a contractors' bond.

§ 1788.50 Acceptable sureties.

Surety companies providing contractors' bonds shall be listed as acceptable sureties in the U.S. Department of Treasury Circular No. 570. The circular is maintained through periodic publication in the **Federal Register** and is available on the Internet under ftp://ftp.fedworld.gov/pub/tel/sureties.txt, and on the Department of the Treasury's computer bulletin board at 202–874–6817.

§§ 1788.51—1788.53 [Reserved]

§ 1788.54 Compliance with contracts.

It is the responsibility of the borrower to determine, before the commencement of work, that the engineer, architect, and the contractor have insurance that complies with their contract requirements.

§ 1788.55 Providing RUS evidence.

When RUS shall specifically so direct, the borrower shall also require the engineer, the architect, and the contractor, to forward to RUS evidence of compliance with their contract representative of the insurance company and include a provision that no change in or cancellation of any policy listed in the certificate will be made without the prior written notice to the borrower and to RUS.

Dated: October 2, 1998.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 98–27235 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–15–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Preliminary Criterion on the Use of Non-Owner Operating Companies

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed criterion for non-owner operating service companies.

SUMMARY: In anticipation of an expected increase in the use of non-owner operating companies, the NRC is seeking public comment on a proposed evaluation criterion concerning whether the use of contract service operating companies in connection with the operation of nuclear power reactors requires approval by the NRC under the regulations governing transfer of licenses. Comments on other criteria that should be considered concerning non-owner operators are also invited. Publication of draft regulatory guidance related to the screening criteria for the transfer of licenses is scheduled for June 1999.

DATES: Comments should be submitted by January 15, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Rulemakings and Adjudications Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays.

Examine copies of comments received at the NRC Public Document Room, 2120 L Street NW (Lower Level), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael J. Davis, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–1016, e-mail mjd1@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 1996, the NRC issued Administrative Letter (AL) 96–02, "Licensee Responsibilities Related to Financial Qualifications," reminding power reactor licensees of their ongoing obligation to seek and obtain prior written consent from the NRC for any changes that would constitute a transfer of an NRC license, directly or indirectly, through transfer of control of the license pursuant to 10 CFR 50.80 and Section 184 of the Atomic Energy Act as amended. AL 96–02 primarily addressed restructuring activities, such as mergers, the formation of holding companies, and sales of facilities or portions of facilities.

The use of service companies to provide operational support in the operation of nuclear power facilities may also require NRC review and approval and a conforming license amendment, depending on the extent to which the ability to control operations is being transferred and the degree of autonomy being granted to the operating company.

There has been limited experience with the introduction of non-owner operating companies. In most instances to date, an existing operating organization was split off from the owner and transferred to a newly formed operating company affiliated with the owner and its parent company. Examples include the transfer approval and license amendments for Farley Units 1 and 2, Hatch Units 1 and 2, and Vogtle Units 1 and 2 when Southern Nuclear Operating Company became the licensed operator of the facilities in place of Alabama Power Company and Georgia Power Company. All three companies are subsidiaries of the Southern Company. Another similar example is the transfer approval and license amendment for River Bend Unit 1 when Entergy Operations, Inc., a subsidiary of Entergy Corporation, became the licensed operator at the same time Entergy Corporation acquired Gulf States Utilities, the former operator. In each of these cases, there was no wholesale change of operating personnel, only a transfer of the existing operating organization to a new operating company. In each of these cases, the licensees recognized that review and approval under 10 CFR 50.80 was necessary.

In another example, in early 1997, Maine Yankee Atomic Power Company (MYAPC) entered into a management services agreement with Entergy Nuclear, Inc., to provide operations management personnel, including the positions of Maine Yankee President and Vice President, Licensing. The Entergy personnel provided were to become employees of MYAPC while at the same time remaining employees of Entergy Nuclear, Inc., and would serve at the pleasure of and take direction from the MYAPC Board of Directors. MYAPC stated in a letter dated February 6, 1997, to the NRC that it had concluded that neither the management services agreement with Entergy nor the specific management changes would require prior NRC approval or a Technical Specification (TS) change. The NRC staff concurred with this assessment, since MYAPC retained ultimate safety-related decisionmaking authority and Entergy personnel were concurrently to become employees of MYAPC.

A similar management services agreement was initiated in early 1998 in which Illinois Power contracted with PECO Energy to provide certain management, technical, and support services to Clinton Power Station (CPS). The senior managers provided by PECO Energy were integrated into the Illinois Power organization and are subject to the direction of Illinois Power. The most senior PECO Energy manager, serving as Chief Nuclear Officer for CPS, also became a dual employee and a corporate officer of Illinois Power. Illinois Power stated in a letter dated January 23, 1998, that it had "concluded that neither the Management Services Agreement with PECO Energy nor the resulting specific management changes require NRC approval. Illinois Power remains the operating licensee for CPS, with ultimate authority to control, and responsibility for, safe plant operation and regulatory compliance." The NRC concurred with that assessment.

Discussion

As nuclear utilities evolve within a deregulated environment, the NRC staff recognizes that various alternative and potentially complex non-owner operator arrangements may be pursued by licensees. With regard to such new arrangements, the NRC staff recognizes that the decision on whether 10 CFR 50.80 consent is necessary, as discussed in SECY–97–144, depends on the extent to which the ability to control operations (within the broadest sense of the Commission's regulations and the terms of the operating license) is being transferred and the degree of autonomy granted to the operating company. The NRC staff also recognizes that a more detailed criterion for the submission of new arrangements pursuant to 10 CFR 50.80 for NRC review and consent could be helpful in identifying for licensees the NRC staff's information needs for such reviews, thereby contributing to more timely reviews.

The NRC staff has developed a proposed criterion regarding changes to nuclear plant operating entities by which the need for NRC review and consent under 10 CFR 50.80 can be judged. The NRC staff has focused this criterion on the concept of final decisionmaking authority: If an operating service company provides advice but does not make the final decision in a particular area that cannot be overruled or is not subject to reversal by the existing licensee, then there has been no transfer of operating authority for that area. The areas to be considered include the following:

- Decision to shut down for repairs.
- Decision to start up the plant.
- Approval of licensee event reports.
- Decision on whether to make a 10 CFR 50.72 report.
- Authority to make operability determinations.
- Authority to change staffing levels.
- Authority to control the terms of employment for licensed staff.
- Authority to make organizational changes.
- Decision to defer repairs.
- Authority for quality assurance responsibilities (selecting audits, approving audit reports, accepting audit responses).
- Budget-setting and spending authority.
- Decision to continue operation with equipment problems.
- Authority over the design control of the facility.
- Decision to continue operations or permanently cease operation.

If a threshold review indicates that the new entity is being granted such final decisionmaking authority in these areas, then the NRC staff would expect the licensee to request full NRC review and consent under 10 CFR 50.80. If the

NRC staff concludes that the new entity is qualified to become a licensee, an order approving the proposed transfer would be issued. Before implementation of the transfer, a conforming license amendment request would need to be submitted and, following consent under 10 CFR 50.80, the license would be amended upon implementation of the transfer to reflect the new transferee.

In addition to this preliminary criterion, the NRC staff notes that lines of authority and responsibility in the organizational chain of command are specified in plant Technical Specifications (TS) in the administrative controls section (Section 5.0 of the Standard TS) or in Updated Final Safety Analysis Reports (UFSAR). When considering the use of service company management talent, the NRC staff expects licensees to consider the licensing basis to identify what management structure, authorities, and responsibilities were previously approved. If the lines of authority or responsibilities specified in the TS are being materially changed, the change would need review and approval by NRC as a license amendment under 10 CFR 50.90 before implementation. The NRC staff expects that licensees will ensure that service company personnel meet UFSAR or TS-specified educational and experience requirements for the positions they will be taking and will seek approval for any license changes they deem necessary.

Licensees and members of the public are invited to submit comments on the proposed criterion regarding changes to nuclear plant operating entities by which the need for 10 CFR 50.80 consent can be determined. Comments on other criteria that should be considered concerning non-owner operators are also invited.

Dated at Rockville, Maryland, this 5th day of October, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–27200 Filed 10–8–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–58–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

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 certain Boeing Model 737–100, –200, –300, –400, and –500 series airplanes. This proposal would require repetitive inspections to detect cracking of various areas of the forward pressure bulkhead, and repair, if necessary. This proposal would also require certain preventive modifications, which, when accomplished, would terminate the repetitive inspections for most, but not all, of the affected areas. This proposal is prompted by reports indicating that numerous fatigue cracks were found on critical areas of the forward pressure bulkhead. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could result in rapid decompression of the airplane fuselage.

DATES: Comments must be received by November 23, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–58–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Nenita K. Odesa, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2557; fax (425) 227–1181.

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 shall 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–NM–58–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, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–58–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that operators have found numerous fatigue cracks on the body station 178 forward pressure bulkhead on certain Boeing Model 737 series airplanes. The longest fatigue crack was approximately 25 inches in length. The fatigue cracks were found at three critical structural areas of the bulkhead, namely, at the side chord areas of the bulkhead, at certain vertical chords of the bulkhead, and on the bulkhead web itself between left and right buttock lines 17.0. Such fatigue cracking, if not corrected, could result in rapid decompression of the airplane fuselage.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998, which describes procedures for repetitive inspections to detect cracking of the body station 178 forward pressure bulkhead; and repair, if necessary. The service bulletin lists several types of inspections to be performed on the side chord areas, vertical chords, and center web area of the bulkhead. The inspections applicable to these areas consist of detailed visual/borescope inspections, eddy current inspections, and ultrasonic inspections.

The alert service bulletin also describes procedures for certain preventive modifications, which, if accomplished, would eliminate the need for repetitive inspections of most, but not all, of the affected areas. Specifically, these modifications consist of replacing portions of the bulkhead center web area and installing certain angles and straps to strengthen the side and vertical chord areas.

Explanation of Requirements of Proposed Rule

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 accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that, although the alert service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require that the repair of those conditions be accomplished in accordance with a method approved by the FAA.

Operators should also note that, although the alert service bulletin recommends accomplishing the initial inspections prior to the accumulation of 20,000 total flight cycles (after the release of the alert service bulletin), followed by repetitive inspections every 6,000 flight cycles, the FAA has determined that this would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the high number of airplanes that have already been found to be affected by the unsafe condition.

In light of all of these factors, the FAA finds that an earlier compliance time (i.e., a threshold for initial inspections of 15,000 total flight cycles, and a repetitive interval of 3,000 flight cycles, for airplanes that have accumulated less than 60,000 total flight cycles as of the effective date of this AD) for initiating the proposed inspections is warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. Additionally, for airplanes that have accumulated 60,000 or more total flight cycles as of the effective date of this AD (i.e., those airplanes most susceptible to fatigue cracking) the proposed initial inspection threshold and repetitive inspection interval are 1,500 flight cycles after the effective date of this AD, and 3,000 flight cycles, respectively.

Additionally, operators should note that the alert service bulletin refers to certain preventive modifications as optional. However, this proposed AD would make these preventive modifications mandatory, and would require accomplishment prior to the accumulation of 75,000 total flight cycles or within 12,000 flight cycles after the effective date of this AD, whichever occurs later. The proposed grace period of 12,000 flight cycles was developed to correspond with a typical operator's heavy maintenance check schedule in order to minimize disruption to scheduled operations. As with the compliance times proposed for the inspections, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the high number of airplanes that have already been found to be affected by the unsafe condition.

These mandatory preventive modifications, when accomplished, would constitute terminating action for the repetitive inspection requirements of this proposed AD for most, but not all, of the affected areas. The one structural location for which inspections would still be required is the side chord areas at water line 207, as the manufacturer has not yet developed a preventive modification for this location.

Interim Action

This is considered to be interim action. The manufacturer has advised that it is developing a preventive modification for the side chord areas at water line 207 that will positively address the unsafe condition at this location. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

There are approximately 2,802 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,130 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 380 work hours per airplane to accomplish the proposed inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections proposed by this AD on U.S. operators is estimated to be $25,764,000, or $22,800 per airplane, per inspection cycle.

It would take approximately 794 work hours per airplane to accomplish the preventive modifications, at an average labor rate of $60 per work hour. Required parts would cost approximately $15,000 per airplane. Based on these figures, the cost impact of the preventive modifications proposed by this AD on U.S. operators is estimated to be $70,783,200, or $62,640 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed 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 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:

Boeing: Docket 98–NM–58–AD.

Applicability: Model 737–100, –200, –300, –400, and –500 series airplanes; as listed in Boeing Alert Service Bulletin 737–57A1173, Revision 2, dated January 15, 1998; 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 (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 fatigue cracking of the forward pressure bulkhead, which could result in rapid decompression of the airplane fuselage, accomplish the following:

(a) Perform inspections of the center web, vertical chords, and side chord areas of the forward pressure bulkhead for fatigue cracking, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. Thereafter, repeat the inspections at intervals not to exceed 3,000 flight cycles until the preventive modifications required by paragraph (d) of this AD have been accomplished.

(1) For airplanes that have accumulated 60,000 or more total flight cycles as of the effective date of this AD: Inspect within 1,500 flight cycles after the effective date of this AD.

(2) For airplanes that have accumulated fewer than 60,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 15,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

(b) If any crack is found during any inspection required by paragraph (a) of this AD, prior to further flight, repair the area in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998; except, where the alert service bulletin specifies that the manufacturer may be contacted for repair instructions, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(c) Prior to the accumulation of 75,000 total flight cycles, or within 12,000 flight cycles after the effective date of this AD, whichever occurs later: Accomplish preventive modifications of the center web, vertical chords, and side chord areas of the forward pressure bulkhead, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1173, Revision 2, dated January 15, 1998. Accomplishment of these modifications constitutes terminating action for the inspections required by paragraph (a) of this AD, except for the requirement to inspect the side chord areas at water line 207 (for which no preventive modification is described in the alert service bulletin). For these side chord areas, continue inspecting in accordance with the requirements of paragraph (a) of this AD.

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

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

(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 airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 25, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27124 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–60–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Models 1900, 1900C, and 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise Airworthiness Directive (AD) 97–15–13 R1, which currently requires installing lubrication fittings in the airstair door handle and latch housing mechanisms on certain Raytheon Aircraft Company (Raytheon) Models 1900, 1900C, and 1900D airplanes (commonly referred to as Beech Models 1900, 1900C, and 1900D airplanes). Since issuance of AD 97–15–13 R1, Raytheon has revised the applicable service information to correct the reference to the number of parts each owner/operator of the affected airplanes should order and to change an incorrect reference to a maintenance manual. The proposed AD would retain the actions of AD 97–15–13 R1, and would incorporate the revised service bulletin into the proposed AD. The actions specified by the proposed AD are intended to continue to prevent moisture from accumulating and freezing in the airstair door handle and latch housing, which could result in the door freezing shut and passengers not being able to evacuate the airplane in an emergency situation.

DATES: Comments must be received on or before December 19, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–60–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Steven E. Potter, Aerospace Safety Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road,

Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4124; facsimile: (316) 946–4407.

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 that summarizes each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96–CE–60–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 96–CE–60–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 97–15–13 R1, Amendment 39–10131 (62 FR 49426, September 22, 1997), currently requires installing lubrication fittings in the airstair door handle and latch housing mechanisms on certain Raytheon Models 1900, 1900C, and 1900D airplanes. Accomplishment of these actions are required in accordance with Raytheon Mandatory Service Bulletin No. 2572, Issued: July, 1996.

The actions specified by AD 97–15–13 R1 are intended to prevent moisture from accumulating and freezing in the airstair door handle and latch housing, which could result in the door freezing shut and passengers not being able to evacuate the airplane in an emergency situation.

AD 97–15–13 R1 was the result of reports of the airstair door not opening because the door was frozen shut on the above-referenced airplanes.

Actions Since Issuance of Previous Rule

Since AD 97–15–13 R1 has become effective, Raytheon has issued Mandatory Service Bulletin SB.2572, Issued: July, 1996; Revision No. 1, May, 1998. This service bulletin revision corrects the reference to the number of parts each owner/operator of the affected airplanes should order and changes an incorrect reference to a maintenance manual.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the subject matter described above, the FAA has determined that:

—Raytheon Mandatory Service Bulletin SB.2572, Issued: July, 1996; Revision No. 1, May, 1998, should be incorporated into AD 97–15–13 R1; and

—AD action should be taken to continue to prevent moisture from accumulating and freezing in the airstair door handle and latch housing, which could result in the door freezing shut and passengers not being able to evacuate the airplane in an emergency situation.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon Models 1900, 1900C, and 1900D airplanes of the same type design, the proposed AD would revise AD 97–15–13 R1. The proposed AD would retain the requirements in AD 97–15–13 R1 of installing lubrication fittings in the airstair door handle and latch housing mechanisms. Accomplishment of the proposed installations would be required in accordance with Raytheon Mandatory Service Bulletin No. 2572, Issued July, 1996; or Raytheon Mandatory Service Bulletin SB.2572, Issued: July, 1996; Revision No. 1, May, 1998.

Cost Impact

The FAA estimates that 408 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 14 workhours per airplane to accomplish the proposed installation, and that the average labor rate is approximately $60 an hour. Parts cost approximately $50 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $363,120, or $890 per airplane. This figure is based on the presumption that no owner/operator of the affected airplanes has accomplished the required installation.

The proposed AD would require the same actions as AD 97–15–13 R1. The only difference is reference to Raytheon Mandatory Service Bulletin SB.2572, Issued: July, 1996; Revision No. 1, May, 1998. Therefore, the proposed AD imposes no additional cost impact upon U.S. owners/operators of the affected airplanes than is already required by AD 97–15–13 R1.

Regulatory Impact

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 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) 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 has been placed 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 14 CFR part 39 of the Federal Aviation Regulations 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 Airworthiness Directive (AD) 97–15–13 R1, Amendment 39–10131, and by adding a new AD to read as follows:

Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Docket No. 96–CE–60–AD; Revises AD 97–15–13 R1, Amendment 39–10131.

Applicability: The following airplane models and serial numbers, certificated in any category:

Model	Serial Nos.
1900	UA–1 through UA–3.
1900C	UB–1 through UB–74, and UC–1 through UC–174.
1900C (C–12J)	UD–1 through UD–6.
1900D	UE–1 through UE–157.

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 (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 within the next 200 hours time-in-service after September 27, 1997 (the effective date of AD 97–15–13 R1), unless already accomplished.

To prevent moisture from accumulating and freezing in the airstair door handle and latch housing, which could result in the door freezing shut and passengers not being able to evacuate the airplane in an emergency situation, accomplish the following:

(a) Install lubrication fittings in the airstair door handle and latch housing mechanisms in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of either:

(1) Raytheon Mandatory Service Bulletin No. 2572, Issued: July, 1996; or

(2) Raytheon Mandatory Service Bulletin SB.2572, Issued: July, 1996; Revision No. 1, May, 1998.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

(1) The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

(2) Alternative methods of compliance approved in accordance with AD 97–15–13 R1 are considered approved as alternative methods of compliance for this AD.

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

(d) All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine these documents at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) This amendment revises AD 97–15–13 R1, Amendment 39–10131.

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

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27122 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–89–AD]

RIN 2120–AA64

Airworthiness Directives; Twin Commander Aircraft Corporation Model 680FL Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Twin Commander Aircraft Corporation (Twin Commander) Model 680FL airplanes. The proposed AD would require revising the FAA-approved Airplane Flight Manual (AFM) to specify procedures that would prohibit flight in severe icing conditions (as determined by certain visual cues), limit or prohibit the use of various flight control devices while in severe icing conditions, and provide the flight crew with recognition cues for, and procedures for exiting from, severe icing conditions. The proposed AD is prompted by the results of a review of the requirements for certification of these airplanes in icing conditions, new information on the icing environment, and icing data provided currently to the flight crew. The actions specified by the proposed AD are intended to minimize the potential hazards associated with operating these airplanes in severe icing conditions by providing more clearly defined procedures and limitations associated with such conditions.

DATES: Comments must be received on or before December 2, 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–89–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. John P. Dow, Sr., Aerospace Engineer, FAA, Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6932; facsimile: (816) 426–2169.

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 that summarizes 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. 98–CE–89–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, Central Region, Office of the Regional Counsel, Attention: Rules

Docket No. 98–CE–89–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

In October 1994, a transport category airplane was involved in an accident in which severe icing conditions (believed to be composed of freezing drizzle or supercooled large droplets (SLD)) were reported in the area. Loss of control of the airplane may have occurred because ice accretion on the upper surface of the wing aft of the area protected by the ice protection system caused airflow separation, which resulted in the ailerons being forced to a right-wing-down control position. There also is concern that the autopilot, which was engaged, may have masked the unusual control forces generated by the ice accumulation. These conditions, if not corrected, could result in a roll upset from which the flight crew may be unable to recover.

The atmospheric conditions (freezing drizzle or SLD conditions) that may have contributed to the accident are outside the icing envelope specified in Appendix C of part 25 of the Federal Aviation Regulations (14 CFR part 25) for certification of the airplane. Such icing conditions are not defined in Appendix C, and the FAA has not required that airplanes be shown to be capable of operating safely in those icing conditions.

The FAA finds that flight crews are not currently provided with adequate information necessary to determine when the airplane is operating in icing conditions for which the airplane is not certificated or what action to take when such conditions are encountered. Therefore, the FAA has determined that flight crews must be provided with such information and must be made aware of certain visual cues that may indicate the airplane is operating in atmospheric conditions that are outside the icing envelope.

Since such information is not available to flight crews, and no airplane is certificated for operation in severe icing conditions, such as freezing drizzle or SLD conditions, the FAA finds that the potentially unsafe condition (described previously as control difficulties following operation of the airplane in icing conditions outside the icing envelope) is not limited to airplanes having the same type design as that of the accident airplane.

The FAA recognizes that the flight crew of any airplane that is certificated for flight in icing conditions may not have adequate information concerning icing conditions outside the icing envelope. However, in 1996, the FAA found that the specified unsafe condition must be addressed as a higher priority on airplanes equipped with unpowered roll control systems and pneumatic de-icing boots. These airplanes were addressed first because the flight crew of an airplane having an unpowered roll control system must rely solely on physical strength to counteract roll control anomalies, whereas a roll control anomaly that occurs on an airplane having a powered roll control system need not be offset directly by the flight crew. The FAA also placed a priority on airplanes that are used in regularly scheduled passenger service. The FAA issued the following airworthiness directives (AD's) that addressed airplanes that met these criteria. These AD's identified visual cues for recognizing severe icing conditions, procedures for exiting these conditions, and prohibitions on the use of various flight control devices. These AD's consisted of the following airplane models.

Docket No.	Manufacturer/airplane model	Federal Register citation
96–CE–01–AD	de Havilland DHC–6 Series	61 FR 2175
96–CE–02–AD	EMBRAER EMB–110P1/EMB–110P2	61 FR 2183
96–CE–03–AD	Beech 99/200/1900 Series	61 FR 2180
96–CE–04–AD	Dornier 228 Series	61 FR 2172
96–CE–05–AD	Cessna 208/208B	61 FR 2178
96–CE–06–AD	Fairchild Aircraft SA226/SA227 Series	61 FR 2189
96–CE–07–AD	Jetstream 3101/3201	61 FR 2186
96–NM–13–AD	Jetstream BAe ATP	61 FR 2144
96–NM–14–AD	Jetstream 4101	61 FR 2142
96–NM–15–AD	British Aerospace HS 748 Series	61 FR 2139
96–NM–16–AD	Saab SF340A/SAAB 340B/SAAB 2000 Series	61 FR 2169
96–NM–17–AD	CASA C–212/CN–235 Series	61 FR 2166
96–NM–18–AD	Dornier 328–100 Series	61 FR 2157
96–NM–19–AD	EMBRAER EMB–120 Series	61 FR 2163
96–NM–20–AD	de Havilland DHC–7/DHC–8 Series	61 FR 2154
96–NM–21–AD	Fokker F27 Mark 100/200/300/400/500/600/700/050 Series	61 FR 2160
96–NM–22–AD	Short Brothers SD3–30/SD3–60/SD3–SHERPA Series	61 FR 2151
95–NM–146–AD	Aerospatiale ATR–42/ATR–72 Series	61 FR 2147

Since issuance of those AD's, the FAA has determined that similar AD's should be issued for similarly equipped airplanes that are not used in regularly scheduled passenger service. Like the AD's written in 1996, these rules described below also provide visual cues for recognizing severe icing conditions, procedures for exiting these conditions, and prohibitions on the use of various flight control devices. These rules would apply to part 25 and certain part 23 airplanes that are equipped with unpowered aileron controls and pneumatic de-icing boots. The part 23 AD's address airplanes certificated in normal and utility categories (not used in agricultural operations) that are used in part 135 on-demand and air-taxi operation, and other airplanes regularly exposed to icing conditions. These rules affect the following airplanes.

Airplane models	Docket No.
Aerospace Technologies of Australia Models N22B and N24A	97–CE–49–AD
Harbin Aircraft Mfg. Corporation Model Y12 IV	97–CE–50–AD
Partenavia Costruzioni Aeronauticas, S.p.A. Models P68, AP68TP 300, AP68TP 600	97–CE–51–AD
Pilatus Aircraft Ltd. Models PC–12 and PC–12/45	97–CE–53–AD
Pilatus Britten–Norman Ltd. Models BN–2A, BN–2B, and BN–2T	97–CE–54–AD

Airplane models	Docket No.
SOCATA—Groupe Aerospatiale Model TBM–700	97–CE–55–AD
Aerostar Aircraft Corporation Models PA–60–600, –601, –601P, –602P, and –700P	97–CE–56–AD
Twin Commander Aircraft Corporation Models 500, –500–A, –500–B, –500–S, –500–U, –520, –560, –560–A, –560–E, –560–F, –680, –680–E, –680FL(P), –680T, –680V, –680W, –681, –685, –690, –690A, –690B, –690C, –690D, –695, –695A, –695B, and 720.	97–CE–57–AD
Raytheon Aircraft Company (formerly known as Beech Aircraft Corporation) Models E55, E55A, 58, 58A, 58P, 58PA, 58TC, 58TCA, 60 series, 65–B80 series, 65–B–90 series, 90 series, F90 series, 100 series, 300 series, and B300 series.	97–CE–58–AD
Raytheon Aircraft Company (formerly known as Beech Aircraft Corporation) Model 2000	97–CE–59–AD
The New Piper Aircraft, Inc. Models PA–46–310P and PA–46–350P	97–CE–60–AD
The New Piper Aircraft, Inc. Models PA–23, PA–23–160, PA–23–235, PA–23–250, PA–E23–250, PA–30, PA–39, PA–40, PA–31, PA–31–300, PA–31–325, PA–31–350, PA–34–200, PA–34–200T, PA–34–220T, PA–42, PA–42–720, PA–42–1000.	97–CE–61–AD
Cessna Aircraft Company Models P210N, T210N, P210R, and 337 series	97–CE–62–AD
Cessna Aircraft Company Models T303, 310R, T310R, 335, 340A, 402B, 402C, 404, F406, 414, 414A, 421B, 421C, 425, and 441.	97–CE–63–AD
SIAI–Marchetti S.r.l. (Augusta) Models SF600 and SF600A	97–CE–64–AD
Cessna Aircraft Company Models 500, 501, 550, 551, and 560 series	97–NM–170–AD
Sabreliner Corporation Models 40, 60, 70, and 80 series	97–NM–171–AD
Gulfstream Aerospace Model G–159 series	97–NM–172–AD
McDonnell Douglas Models DC–3 and DC–4 series	97–NM–173–AD
Mitsubishi Heavy Industries Model YS–11 and YS–11A series	97–NM–174–AD
Frakes Aviation Model G–73 (Mallard) and G–73T series	97–NM–175–AD
Fairchild Models F27 and FH227 series	97–NM–176–AD
Lockheed Models	97–NM–177–AD

The FAA's Determination

Following examination of all relevant information, the FAA has determined that certain limitations and procedures should be included in the FAA-approved Airplane Flight Manual (AFM) for the affected airplanes as follows:

- All Twin Commander Model 680FL airplanes must be prohibited from flight in severe icing conditions (as determined by certain visual cues), and
- Flight crews must be provided with information that would minimize the potential hazards associated with operating the airplane in severe icing conditions.

The FAA has determined that such limitations and procedures currently are not defined adequately in the AFM for these airplanes.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified in which an unrecoverable roll upset may occur, as a result of exposure to severe icing conditions that are outside the icing limits for which the airplanes were certificated, the proposed AD would require revising the Limitations Section of the FAA-approved AFM to specify procedures that would:

- Require flight crews to immediately request priority handling from Air Traffic Control to exit severe icing conditions (as determined by certain visual cues);
- Prohibit use of the autopilot when ice is formed aft of the protected surfaces of the wing, or when an unusual lateral trim condition exists; and
- Require that all icing wing inspection lights be operative prior to flight into known or forecast icing conditions at night.

This proposed AD would also require revising the Normal Procedures Section of the FAA-approved AFM to specify procedures that would:

- Limit the use of the flaps and prohibit the use of the autopilot when ice is observed forming aft of the protected surfaces of the wing, or if unusual lateral trim requirements or autopilot trim warnings are encountered; and
- Provide the flight crew with recognition cues for, and procedures for exiting from, severe icing conditions.

Relationship of the Proposed AD With AD 98–20–34

AD 98–20–34, Amendment 39–10801 (63 FR 51520, September 28, 1998), currently requires the same actions as are proposed in this NPRM on Twin Commander Models 500, 500–A, 500–B, 500–S, 500–U, 520, 560, 560–A, 560–E, 560–F, 680, 680–E, 680FL(P), 680T, 680V, 680W, 681, 685, 690, 690A, 690B, 690C, 690D, 695, 695A, 695B, and 720 airplanes. The FAA inadvertently left the Model 680FL airplanes out of the Applicability of AD 98–20–34.

This NPRM proposes to require the same actions on the Model 680FL airplanes as are required by AD 98–20–34 for the Twin Commander Models 500, 500–A, 500–B, 500–S, 500–U, 520, 560, 560–A, 560–E, 560–F, 680, 680–E, 680FL(P), 680T, 680V, 680W, 681, 685, 690, 690A, 690B, 690C, 690D, 695, 695A, 695B, and 720 airplanes.

Cost Impact

The FAA estimates that 64 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Since an owner/operator who holds at least a private pilot's certificate as authorized by §§ 43.7 and 43.9 of the Federal Aviation Regulations (14 CFR 47.7 and 43.9) can accomplish the proposed action, the only cost impact upon the public is the time it would take the affected airplane owners/operators to incorporate the proposed AFM revisions.

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

In addition, the FAA recognizes that the proposed action may impose operational costs. However, these costs are incalculable because the frequency of occurrence of the specified conditions and the associated additional flight time cannot be determined. Nevertheless, because of the severity of the unsafe condition, the FAA has determined that continued operational safety necessitates the imposition of the costs.

Regulatory Impact

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 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) 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 has been placed 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 (AD) to read as follows:

Twin Commander Aircraft Corporation: Docket No. 98–CE–89–AD.

Applicability: Model 680FL 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 (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 already accomplished.

To minimize the potential hazards associated with operating the airplane in severe icing conditions by providing more clearly defined procedures and limitations associated with such conditions, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD

Note 2: Operators should initiate action to notify and ensure that flight crewmembers are apprised of this change.

(1) Revise the FAA-approved Airplane Flight Manual (AFM) by incorporating the following into the Limitations Section of the AFM. This may be accomplished by inserting a copy of this AD in the AFM.

"WARNING

Severe icing may result from environmental conditions outside of those for which the airplane is certificated. Flight in freezing rain, freezing drizzle, or mixed icing conditions (supercooled liquid water and ice crystals) may result in ice build-up on protected surfaces exceeding the capability of the ice protection system, or may result in ice forming aft of the protected surfaces. This ice may not be shed using the ice protection systems, and may seriously degrade the performance and controllability of the airplane.

• During flight, severe icing conditions that exceed those for which the airplane is certificated shall be determined by the following visual cues. If one or more of these visual cues exists, immediately request priority handling from Air Traffic Control to facilitate a route or an altitude change to exit the icing conditions.

—Unusually extensive ice accumulation on the airframe and windshield in areas not normally observed to collect ice.
—Accumulation of ice on the lower surface of the wing aft of the protected area.
—Accumulation of ice on the engine nacelles and propeller spinners farther aft than normally observed.

• Since the autopilot, when installed and operating, may mask tactile cues that indicate adverse changes in handling characteristics, use of the autopilot is prohibited when any of the visual cues specified above exist, or when unusual lateral trim requirements or autopilot trim warnings are encountered while the airplane is in icing conditions.

• All wing icing inspection lights must be operative prior to flight into known or forecast icing conditions at night. [NOTE: This supersedes any relief provided by the Master Minimum Equipment List (MMEL).]"

(2) Revise the FAA-approved AFM by incorporating the following into the Normal Procedures Section of the AFM. This may be accomplished by inserting a copy of this AD in the AFM.

"THE FOLLOWING WEATHER CONDITIONS MAY BE CONDUCIVE TO SEVERE IN-FLIGHT ICING:

• Visible rain at temperatures below 0 degrees Celsius ambient air temperature.

• Droplets that splash or splatter on impact at temperatures below 0 degrees Celsius ambient air temperature.

PROCEDURES FOR EXITING THE SEVERE ICING ENVIRONMENT:

These procedures are applicable to all flight phases from takeoff to landing. Monitor the ambient air temperature. While severe icing may form at temperatures as cold as −18 degrees Celsius, increased vigilance is warranted at temperatures around freezing with visible moisture present. If the visual cues specified in the Limitations Section of the AFM for identifying severe icing conditions are observed, accomplish the following:

• Immediately request priority handling from Air Traffic Control to facilitate a route or an altitude change to exit the severe icing conditions in order to avoid extended exposure to flight conditions more severe than those for which the airplane has been certificated.

• Avoid abrupt and excessive maneuvering that may exacerbate control difficulties.

• Do not engage the autopilot.

• If the autopilot is engaged, hold the control wheel firmly and disengage the autopilot.

• If an unusual roll response or uncommanded roll control movement is observed, reduce the angle-of-attack.

• Do not extend flaps when holding in icing conditions. Operation with flaps extended can result in a reduced wing angle-of-attack, with the possibility of ice forming on the upper surface further aft on the wing than normal, possibly aft of the protected area.

• If the flaps are extended, do not retract them until the airframe is clear of ice.

• Report these weather conditions to Air Traffic Control."

(b) Incorporating the AFM revisions, as required by this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by § 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(c) Special flight permits may be issued in accordance with §§ 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) 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, Small Airplane Directorate, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 3: Information concerning the existence of approved alternative methods of

compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) All persons affected by this directive may examine information related to this AD at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 5, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27193 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–61–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Raytheon Aircraft Company (Raytheon) 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 series airplanes. The proposed AD would require installing a placard on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents. The proposed AD is the result of reports of engine stoppage on the affected airplanes where the cause was considered to be incorrect positioning of the fuel selector. The actions specified by the proposed AD are intended to help prevent a lack of fuel flow to the engine caused by incorrect positioning of the fuel selector, which could result in loss of engine power.

DATES: Comments must be received on or before December 18, 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–61–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Randy Griffith, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4145; facsimile: (316) 946–4407.

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 that summarizes 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. 98–CE–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–61–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received several reports of engine stoppage on Raytheon 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 series airplanes. These incidents are believed to be attributed to incorrect positioning of the fuel selector, e.g., fuel shutoff, cross-feed selector for twin engine aircraft, tank selector. No mechanism exists to prevent positioning of the selector between any selection and no warning light exists to warn the pilot of incorrect positioning.

With the selector positioned between a selection, a lack of fuel flow to the engine could result with consequent loss of engine power.

Relevant Service Information

Raytheon has issued Mandatory Service Bulletin (SB) No. 2670, Revision No. 1, dated May, 1998, which specifies procedures for installing a placard, part number 36–920059–1, on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the above-referenced service information, the FAA has determined that AD action should be taken to prevent a lack of fuel flow to the engine caused by incorrect positioning of the fuel selector, which could result in loss of engine power.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Raytheon 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 series airplanes of the same type design, the FAA is proposing AD action. The proposed AD would require installing a placard, part number 36–920059–1, on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents. Accomplishment of the proposed installation would be in accordance with the service information previously referenced.

Cost Impact

The FAA estimates that 15,200 airplanes in the U.S. registry would be affected by the proposed AD. The placard that would be required for the proposed AD may be obtained through a Raytheon Aircraft Authorized Service Center at no cost to the owners/operators of the affected airplanes. Since an owner/operator who holds at least a private pilot's certificate as authorized by §§ 43.7 and 43.9 of the Federal Aviation Regulations (14 CFR 43.7 and

43.9) may accomplish the proposed placard installation, the only cost impact upon the public would be the approximately 30 minutes it would take each owner/operator to install the placard.

Regulatory Impact

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 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) 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 has been placed 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 (AD) to read as follows:

Raytheon Aircraft Company (All type certificates of the affected airplanes previously held by the Beech Aircraft Corporation): Docket No. 98–CE–61–AD.

Applicability: The following airplane models and serial numbers, certificated in any category:

Model	Serial No.
B17L	All serial numbers.
SB17L	Do.
B17B	Do.
B17R (Army UC–43H).	Do.
C17L (Army UC–43J)	Do.
SC17L	Do.
C17B (Army UC–43G).	Do.
SC17B	Do.
C17R (Army UC–43E).	Do.
SC17R	Do.
D17A (Army UC–43F)	Do.
D17R (Army UC–43A).	Do.
D17S (Army UC–43, UC–43B, Navy GB–1, GB–2).	Do.
SD17S	Do.
E17B (Army UC–43D	Do.
SE17B	Do.
E17L	Do.
F17D (UC–43C)	Do.
SF17D	Do.
G17S	Do.
D18S	Do.
E18S	Do.
E18S–9700	Do.
G18S	Do.
G18S–9150	Do.
H18	Do.
A23–19	Do.
19A	Do.
M19A	Do.
B19	Do.
23	Do.
A23	Do.
A23A	Do.
B23	Do.
C23	Do.
A23–24	Do.
A24	Do
A24R	Do.
B24R	Do.
C24R	Do.
F33A	CE–290 through CE–1791.
E33C and F33C	CJ–26 through CJ–179.
35	All serial numbers.
35R	Do.
A35	Do.
B35	Do.
C35	Do.
D35	Do.
E35	Do.
F35	Do.
G35	Do.
H35	Do.
J35	Do.
K35	Do.
M35	Do.
N35	Do.
P35	Do.
S35	Do.
V35	Do.
V35TC	Do.
V35A	Do.
V35A–TC	Do.
V35B	Do.
V35B–TC	Do.
36	Do.
A36	E–185 through E–3046.
A36TC	All serial numbers.
B36TC	EA–242 through EA–591.
45	All serial numbers.
A45	Do.
D45	Do.
50	Do.
B50	Do.
C50	Do.
D50	Do.
D50A	Do.
D50B	Do.
D50C	Do.
D50E	Do.
E50	Do.
F50	Do.
G50	Do.
H50	Do.
J50	Do.
95–55	Do.
95–A55	Do.
95–B55	Do.
95–C55	Do.
D55	Do.
E55	Do.
56TC	Do.
A56TC	Do.
58	TH–1 through TH–1798.
58P	All serial numbers.
58TC	Do.
60	Do.
A60	Do.
B60	Do.
65	Do.
A65	Do.
A65–8200	Do.
70	Do.
76	Do.
77	Do.
65–80	Do.
65–A80	Do.
65–B80	Do.
65–88	Do.
95	Do.
B95	Do.
B95A	Do.
D95A	Do.
E95	Do.

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 (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 within the next 75 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent a lack of fuel flow to the engine caused by incorrect positioning of the fuel

selector, which could result in loss of engine power, accomplish the following:

(a) Install a placard, part number 36–920059–1, on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents. Accomplish this installation in accordance with Raytheon Mandatory Service Bulletin No. 2670, Revision No. 1, dated May, 1998.

(b) Installing the placard, as specified in paragraph (a) of this AD, may be performed by the owner/operator holding at least a private pilot certificate as authorized by § 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with this AD in accordance with § 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(c) Special flight permits may be issued in accordance with §§ 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) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(e) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 5, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27195 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–64–AD]

RIN 2120–AA64

Airworthiness Directives; Mooney Aircraft Corporation Models M20B, M20C, M20D, M20E, M20F, M20G, and M20J Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Mooney Aircraft Corporation (Mooney) Models M20B, M20C, M20D, M20E, M20F, M20G, and M20J airplanes that are equipped with an O & N Bladder Fuel Cell that was installed prior to February 1, 1998, in accordance with Supplemental Type Certificate (STC) SA2277CE or STC SA2350CE. The STC's apply to all of the affected airplane models except for the Model M20B airplanes; the Model M20B airplanes could have one of the STC's incorporated by field approval. The proposed AD would require inspecting the drain valve to assure that it was inserted fully into the drain nipple and modifying any drain valve found not to be inserted fully into the drain nipple. The proposed AD would also require certain modifications and replacements on the affected fuel cells to reduce the chances of water/ice contamination. The proposed AD is the result of reports of rain water entering the fuel bladders and the information from the subsequent evaluation of the fuel systems. The actions specified by the proposed AD are intended to assist in preventing water from entering the fuel bladders, which could result in rough engine operation or complete loss of engine power.

DATES: Comments must be received on or before December 4, 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–64–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from O & N Aircraft Modifications Inc., 210 Windsock Lane, Seamans Airport, Factoryville, PA 18419; telephone: (717) 945–3769; facsimile: (717) 945–7282. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4143; facsimile: (316) 946–4407.

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 that summarizes 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. 98–CE–64–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, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–64–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has received a report of water being trapped in the fuel bladders on Mooney Models M20C, M20D, M20E, M20F, M20G, and M20J airplanes that are equipped with an O & N Bladder Fuel Cell that was installed prior to February 1, 1998, in accordance with Supplemental Type Certificate (STC) SA2277CE or STC SA2350CE. The STC's apply to all of the above-referenced airplane models except for the Mooney Model M20B airplanes; the Model M20B airplanes could have one of the STC's incorporated by field approval.

Evaluation of this problem shows that improper installation of the fuel bladder drains and fuel caps could allow rain water to enter the fuel bladders if the fuel cap was defective.

The evaluation also revealed additional installation problems and design deficiencies, including:

—Inadequate installation of the foam filler that supports the fuel bladders;

—Inadequate engine crankcase breather vent and primary fuel vent ice protection; and
—Fuel caps that have the sealing surface below the fuel tank opening.

These conditions, if not corrected in a timely manner, could result in rough engine operation or complete loss of engine power.

Relevant Service Information

O & N Aircraft Modifications Inc. has issued Mandatory Service Bulletin No. ON–100, dated February 1, 1998, which specifies procedures for the following:
—Inspecting the drain valve to assure that it was inserted fully into the drain nipple and modifying any drain valve found not to be inserted fully into the drain nipple;
—Installing a foam wedge to reduce the amount of trapped fluids in the center fuel cell;
—Installing an anti-ice mast forward of the vent tubes to prevent icing of the fuel tank vents;
—Drilling a vent hole to prevent icing of the engine's crankcase breathers; and
—Replacing the flush style caps and adapters with raised style caps and adapters to prevent water from entering through the flush filler cap.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken to assist in preventing water from entering the fuel bladders, which could result in rough engine operation or complete loss of engine power.

Explanation of the Provisions of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Mooney Models M20B, M20C, M20D, M20E, M20F, M20G, and M20J airplanes of the same type design that are equipped with an O & N Bladder Fuel Cell that was installed prior to February 1, 1998, in accordance with STC SA2277CE or STC SA2350CE, the FAA is proposing AD action. The STC's apply to all of the affected airplane models except for the Model M20B airplanes; the Model M20B airplanes could have one of the STC's incorporated by field approval. The proposed AD would require inspecting the drain valve to assure that it was inserted fully into the drain nipple and modifying any drain valve found not to be inserted fully into the drain nipple. The proposed AD also would require the design changes specified in O & N Aircraft Modifications Inc. Mandatory Service Bulletin No. ON–100, dated February 1, 1998.

Cost Impact

The FAA estimates that 300 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 8 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $200 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $204,000, or $680 per airplane.

The FAA is not aware of any owners/operators of the affected airplanes that have already accomplished the actions specified in this proposed AD.

Regulatory Impact

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 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) 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 has been placed 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 (AD) to read as follows:

Mooney Aircraft Corporation: Docket No. 98–CE–64–AD.

Applicability: All serial number airplanes of the following:

1. Models M20C, M20D, M20E, M20F, M20G, and M20J airplanes, certificated in any category, that are equipped with an O & N Bladder Fuel Cell that was installed prior to February 1, 1998, in accordance with Supplemental Type Certificate (STC) SA2277CE or STC SA2350CE; and

2. Model M20B airplanes, certificated in any category, that have any of the above-referenced STC's incorporated by field approval.

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 in the body of this AD, unless already accomplished.

To assist in preventing water from entering the fuel bladders, which could result in rough engine operation or complete loss of engine power, accomplish the following:

(a) Within the next 12 months after the effective date of this AD, accomplish the following in accordance with O & N Aircraft Modifications Inc. Mandatory Service Bulletin No. ON–100, dated February 1, 1998:

(1) On both the left and right wing, inspect the drain valve to assure that it was inserted fully into the drain nipple, and, prior to further flight, modify any drain valve found not to be inserted fully into the drain nipple;

(2) On both the left and right wing, install a foam wedge to reduce the amount of trapped fluids in the center fuel cell;

(3) On both the left and right wing, install an anti-ice mast forward of the vent tubes to prevent icing of the fuel tank vents;

(4) Drill a vent hole to prevent icing of the engine's crankcase breathers; and

(5) On both the left and right wing, replace the flush style caps and adapters with raised style caps and adapters.

(b) Special flight permits may be issued in accordance with §§ 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to O & N Aircraft Modifications Inc., 210 Windsock Lane, Seamans Airport, Factoryville, PA 18419; or may examine this document at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 5, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–27196 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–12]

Proposed Establishment of Class D and E Airspace, Amendment to Class D and E Airspace; Montgomery, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemeking.

SUMMARY: This document proposes to amend the Class D and E surface areas airspace for Montgomery Regional Airport—Dannelly Field, Montgomery, AL, and establish Class D and E surface areas airspace for Maxwell AFB, AL. Presently, Maxwell AFB is contained within the Montgomery, AL Class D and E airspace areas. As a result of this proposed action, the Montgomery, AL, Class D and E airspace to the surface would be reduced concurrent with the establishment of the Class D and E airspace areas for Maxwell, AFB.

DATES: Comments must be received on or before November 9, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 98–ASO–12, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

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–ASO–12." The postcard will be date/time stamped and returned to the commenter. All communications received 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 the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, 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 NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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 amend the Class D and E surface areas airspace for Montgomery Regional Airport—Dannelly Field, Montgomery, AL, and establish Class D and E surface areas airspace at Maxwell AFB, AL. Maxwell AFB currently is included in the Montgomery, AL, Class D and E airspace areas. Class D and E airspace to the surface is required to accommodate current Standard Instrument Approach Procedures (SIAP's) and contain Instrument Flight Rules (IFR) operations at Maxwell AFB. As a result of this proposed action, the Montgomery, AL, Class D and E airspace to the surface would be reduced concurrent with the establishment of the Class D and E airspace areas for Maxwell AFB. Class D airspace designations and Class E airspace areas designated as surface areas for an airport are published in Paragraphs 5000 and 6002 respectively of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations 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 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 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

ASO AL D Maxwell AFB, AL [New]

Maxwell AFB
(Lat. 32°22'45"N, long. 86°21'45"W)
Montgomery Regional Airport—Dannelly Field, AL
(Lat. 32°18'03"N, long. 86°23'38"W)

That airspace extending upward from the surface to and including 2,200 feet MSL within a 5-mile radius of Maxwell AFB, excluding that airspace south of a line connecting the 2 points of intersection with the east end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field and with the west end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field to the intersection of the Montgomery VORTAC 320° radial, thence extending northwest connecting the 2 points of intersection with a 5-mile radius of Maxwell AFB. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASO AL D Montogomery, AL [Revised]

Montogmery Regional Airport—Dannelly Field, AL
(Lat. 32°18'03"N, long. 86°23'38"W)
Maxwell AFB
(Lat 32°22'45"N, long. 86°21'45"W)

That airspace extending upward from the surface to and including 2,700 feet MSL within a 5-mile radius of Montgomery Regional Airport—Dannelly Field, excluding that airspace north of a line connecting the 2 points of intersection with the east end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field and with the west end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field to the intersection of the Montgomery VORTAC 320° radial, thence extending northwest connecting the 2 points of intersection with a 5-mile radius of Montgomery Regional Airport—Dannelly Field. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas

* * * * *

ASO AL E2 Maxwell AFB, AL [New]

Maxwell AFB
(Lat. 32°22'45"N, long. 86°21'45"W)
Montgomery Regional Airport—Dannelly Field, AL
(Lat. 32°18'03"N, long. 86°23'38"W)

Within a 5-mile radius of Maxwell AFB, excluding that airspace south of a line connecting the 2 points of intersection with the east end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field and with the west end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field to the intersection of the Montgomery VORTAC 320° radial, thence extending northwest connecting the 2 points of intersection with a 5-mile radius of Maxwell AFB. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASO AL E2 Montgomery, AL [Revised]

Montgomery Regional Airport—Dannelly Field, AL
(Lat. 32°18'03"N, long. 86°23'38"W)
Maxwell AFB
(Lat. 32°22'45"N, long. 86°21'45"W)

Within a 5-mile radius of Montgomery Regional Airport—Dannelly Field, excluding that airspace north of a line connecting the 2 points of intersection with the east end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field and with the west end of a line 2.5 miles north of and parallel to RWY 10–28 at Montgomery Regional Airport—Dannelly Field to the intersection of the Montgomery VORTAC 320° radial, thence extending northwest connecting the 2 points of intersection with a 5-miles radius of Montgomery Regional Airport—Dannelly Field. This Class E airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

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Issued in College Park, Georgia, on September 28, 1998.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–27252 Filed 10–8–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–40518; File No. S7–26–98]

RIN 3235–AH04

Books and Records Requirements for Brokers and Dealers Under the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Reproposed rule.

SUMMARY: The Securities and Exchange Commission is reproposing for comment amendments to its broker-dealer books and records rules, Rule 17a–3 and Rule 17a–4, under the Securities Exchange Act of 1934. The original proposal was made in 1996 in response to concerns raised by members of the North American Securities Administrators Association about the adequacy of the Commission's books and records rules as to sales practices. The reproposed amendments incorporate comments received in response to the original proposal. These amendments are designed to clarify and expand recordkeeping requirements with respect to purchase and sale documents, customer records, associated person records, customer complaints, and certain other matters. The reproposed amendments also specify the books and records that broker-dealers would have to make available at their local offices. The reproposed books and records rules are specifically designed to assist securities regulators when conducting sales practice examinations.

DATES: Comments must be received on or before November 9, 1998.

ADDRESSES: Comments should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 6–9, Washington, D.C. 20549. Comments may also be submitted electronically at the following E-mail address: rule-comments@sec.gov. All comment letters should refer to File No. S7–26–98. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Electronically

submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 942–0131; Thomas K. McGowan, Assistant Director, at (202) 942–4886; or Deana A. La Barbera, Attorney, at (202) 942–0734; Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 10–1, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 17(a)(1) of the Securities Exchange Act of 1934 ("Exchange Act")[1] requires registered broker-dealers to make, keep, furnish, and disseminate records and reports prescribed by the Commission "as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of" the Exchange Act.[2] Rules 17a–3 and 17a–4 under the Exchange Act specify minimum requirements with respect to the records that broker-dealers must make as well as the periods during which those records and other documents relating to the broker-dealer's business must be preserved.[3] The Commission, self-regulatory organizations ("SROs"), and state securities regulators must have timely access to these records to conduct effective examinations and enforcement actions.

The reproposed recordkeeping requirements are intended to enable securities regulators to conduct more efficient and effective broker-dealer examinations primarily for compliance with sales practice requirements. For situations in which examiners uncover potential violations of law, the reproposed recordkeeping requirements would provide regulators with essential tools for enforcement investigations, and, when necessary, enforcement proceedings. In addition, the reproposed amendments that would require that records be kept at each local office of a broker-dealer would improve the ability of securities regulators, including state securities regulators, to conduct examinations of sales practice activities of individual offices of a broker-dealer.

In 1993, the North American Securities Administrators Association ("NASAA"), through its Broker-Dealer Operations Committee ("NASAA Committee"), commenced work on a model state regulation that would require broker-dealers to make and preserve books and records that would be valuable in examination and enforcement proceedings. The NASAA Committee presented a final draft of its model regulation for membership approval at NASAA's October 1995 meeting. At that meeting, the Commission's Chairman, Arthur Levitt, stated that supplemental state books and records requirements would impose a substantial burden on broker-dealers because of the possibility that each state's requirements would be inconsistent with those adopted by other states and that modification of the Commission's rules would be a less burdensome means of accomplishing NASAA's goals. At Chairman Levitt's request, NASAA's membership voted to defer taking further action with respect to the NASAA Committee's proposed model regulations to give the Commission an opportunity to develop appropriate amendments to its books and records rules.

On October 11, 1996, the National Securities Market Improvement Act of 1996 ("NSMIA") was adopted.[4] NSMIA prohibited states from establishing books and records rules that differ from, or are in addition to the Commission's rules.[5] NSMIA also provided that the Commission must consult periodically with state securities regulators concerning the adequacy of the Commission's books and records rules.[6]

II. Proposing Release

On October 22, 1996, the Commission proposed amendments[7] to the books and records rules that were designed to further the Commission's role in protecting investors and to address the NASAA Committee's concern that the Commission's current books and records requirements do not obligate broker-dealers to make and retain records specifically designed to facilitate sales practice examinations and enforcement activities.

The amendments to Rule 17a–3 proposed in 1996 would have required broker-dealers to generate local office blotters, record supplemental information on brokerage order memoranda, create customer account forms, and maintain additional records concerning associated persons, customer complaints, and exceptional activity in customer accounts. The proposed amendments to Rule 17a–4 would have required broker-dealers to preserve additional records, including advertising and marketing materials, registrations and licenses, audit and examination reports, records concerning recommended securities, and manuals relating to compliance, supervision, and procedures. Further, the proposed amendments to Rule 17a–4 would have clarified and modified the Commission's existing requirements concerning preservation of certain correspondence and contracts. Finally, the proposed amendments to Rule 17a–4 would have supplemented the existing standards concerning the organization of books and records, required broker-dealers to designate a principal to be responsible for books and records compliance, and required broker-dealers to make certain records available at each of their local offices.

The Commission received approximately 178 written comments in response to the Proposing Release. Broker-dealers, trade associations, and law firms representing broker-dealers submitted 110 comment letters generally opposing some or all of the proposed amendments. State securities regulators and NASAA accounted for 33 comment letters generally supporting the proposed amendments. The balance of the comment letters were received from other individuals or entities interested in the Proposing Release.

Most broker-dealers opposed the proposed amendments because they believed the costs associated with implementing them would outweigh any increase in investor protection. Many broker-dealer commenters particularly opposed the proposed amendments requiring certain records to be kept at each local office and suggested that the records be maintained at one centralized location with the understanding that the records would be provided to regulators at a local office on a timely basis. Some broker-dealers were particularly concerned with the local office retention requirement because it would apply to one-person offices. These broker-dealers believed that these offices could be more effectively supervised if records were held at one centralized location. Small broker-dealers and those affiliated with insurance companies suggested that they be exempt from the provisions of the proposed amendments.

The letters submitted by the state securities regulators and NASAA, on the other hand, strongly supported the proposed amendments in their entirety. These commenters believed that the amendments would enable state securities regulators to conduct more thorough and efficient broker-dealer

[1] 15 U.S.C. 78a *et seq.*

[2] 15 U.S.C. 78q(a)(1).

[3] 17 CFR 240.17a–3 and 240.17a–4.

[4] Pub. L. 104–290, 110 Stat. 3416 (1996).

[5] 15 U.S.C. 78*o*(h).

[6] *Id.*

[7] Exchange Act Release No. 37850 (Oct. 22, 1996), 61 FR 55593 (Oct. 28, 1996) ("Proposing Release").

examinations, particularly of local offices in their respective states. NASAA commented that state-level examinations have revealed that broker-dealers, hearing officers, and state courts had divergent interpretations of the Commission's books and records rules, that state examinations were often hindered by the absence of key records in local offices, that many branch records were poorly organized and inefficiently maintained, and that where records were maintained at a central location, there often were significant delays in the production of requested records. These commenters believed the amendments to Rules 17a–3 and 17a–4 would enable state securities regulators to more effectively conduct broker-dealer examinations, especially examinations of local branch offices of broker-dealers operating in their respective states.

III. Reproposed Amendments and Discussion

In response to numerous comments, the Commission is reproposing the amendments, which have been modified from the original proposal, to reduce the burden on broker-dealers without substantially detracting from the original objective of establishing rules that would facilitate examinations and enforcement activities of the Commission, SROs, and state securities regulators. Some of the reproposed rules may be duplicative of SRO recordkeeping rules;[8] nevertheless, the Commission is reproposing the rules because it believes certain recordkeeping requirements should be directly enforced by the Commission and should be available for states to include under their own laws.

A. Memoranda of Brokerage Orders and Dealer Transactions

Rules 17a–3(a)(6) and 17a–3(a)(7) currently require that brokerage order memoranda and dealer purchase and sale memoranda ("order tickets") include information concerning the terms and conditions of the order, the account for which the order is entered, the time of entry, the execution price, and to the extent feasible, the time of execution (or cancellation) of the order.[9] The Proposing Release would have required that each order ticket also identify the associated person who entered the order and indicate whether the order was solicited or unsolicited.

As reproposed, an order ticket would still have to identify the associated person who entered the order, but it would not have to note whether the transaction was solicited or unsolicited. Further, the reproposed amendments to Rules 17a–3(a)(6) and (7) would require that an order ticket contain the identity of any person, other than the associated person, who entered or accepted the order on behalf of a customer. This requirement would allow securities examiners to determine whether particular persons, including unregistered persons, are engaged in sales practice violations.

The reproposed amendments provide flexibility in how a broker-dealer would have to record the identity of the person entering the order. Under the reproposed amendments, if a broker-dealer uses an electronic system to generate order tickets that does not have a field available to capture the identity of a person, other than the associated person, entering an order on a customer's behalf, the broker-dealer would not have to modify its system to enter that detail on the order ticket; alternatively, the broker-dealer could create a separate record identifying the person.

The Commission seeks comment on how this rule should be applied to firms whose customers use an e-mail address, an electronic trading system, a general telephone number, or other system or procedure to submit orders. The Commission also seeks comment on whether certain firms, such as firms that accept unsolicited orders only or firms that do not designate a specific associated person for each account, should be exempt from this rule.

The reproposed amendments also would add a requirement that a broker-dealer record on the order ticket the time at which the broker-dealer receives a customer order, even if the order is subsequently executed. The current rule requires this information only when the order is not executed. This amendment would enable examiners to review more easily a broker dealer's compliance with its best execution obligations and the requirement that a broker-dealer not trade ahead of its customers.[10]

B. Additional Records Concerning Associated Persons

Rule 17a–3(a)(12) currently specifies the types of records that a broker-dealer must maintain with respect to each of its associated persons. In addition to basic background information, the existing rule requires a broker-dealer to maintain records of each associated person's employment and disciplinary history. The Proposing Release would have required that each broker-dealer keep additional records concerning its associated persons, including registration and licensing materials, and that certain of these records be kept at each local office.

The reproposed amendments would not require that Forms U–4 and U–5, amendments to those forms, or state or SRO licenses be kept at local offices of the broker-dealer, or that a broker-dealer maintain records concerning an associated person's change in licensing status. As several commenters pointed out, this information is readily available through the Central Registration Depository ("CRD").

The proposed amendments also would have required that each broker-dealer maintain records with respect to agreements between associated persons and the broker-dealer, customer complaint information, and client trading records for each associated person. The reproposal largely retains these requirements albeit in new proposed subsections of the rule.[11] These requirements would assist examiners in reviewing the sales practices of individual associated persons.

The reproposed amendments would require that each broker-dealer maintain a list of any internal identification numbers and CRD numbers assigned to associated persons and a list of associated persons working at, out of, or being supervised at or from each local office.[12] This information will assist examiners especially with respect to conducting an examination of a particular local office.

Finally, the reproposed amendments would delete the definition of associated person from Rule 17a–

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[8] For example, the Commission would require broker-dealers to maintain information, such as investment objectives, about customers that would overlap certain provisions of National Association of Securities Dealers ("NASD") Conduct Rule 3110 and New York Stock Exchange ("NYSE") Rule 405.

[9] A number of firms have asked for guidance on the meaning of the term "to the extent feasible." The time of execution should be included on the order ticket except for situations in which it may be impossible to determine the precise time when the transaction was executed; however, in that case the broker-dealer must note the approximate time of execution. Exchange Act Release No. 3040 (Oct. 13, 1941), 11 FR 10984.

[10] *See* 17 CFR 240.11Ac1–1 and 240.11Ac1–4. *See also* NASD Conduct Rules 2110 and 2320.

[11] The requirement regarding customer complaints has been moved to reproposed Rule 17a–3(a)(17). Other requirements relating to records for each associated person have been moved to Reproposed Rule 17a–3(a)(12) so that most of the records required to be kept about associated persons are located in the same paragraph of Rule 17a–3.

[12] The proposed amendments would have required broker-dealers to maintain a list identifying the local office where each associated person conducts the greatest portion of his or her business. This provision has been discarded in favor of the reproposed amendments to Rule 17a–3(a)(12).

3(a)(12)(ii). Given that the term associated person is defined in several provisions of the Exchange Act, a separate definition under the rule is unnecessary and potentially confusing.[13] Exchange Act provisions essentially define an associated person to include any partner, officer, director, or branch manager of a broker-dealer, and any person occupying a similar status or performing similar functions. In addition, the term associated person includes any person directly or indirectly controlling, controlled by, or under common control with a broker-dealer, or any employee of a broker-dealer. The Commission interprets the term associated person to include any independent contractor, consultant, franchisee, or other person providing services to a broker-dealer equivalent to those services provided by the persons specifically referenced in the statute.[14] Consistent with this position, the reproposed amendments would require broker-dealers to keep records regarding all such persons.

These records would not be required, however, for persons whose functions are solely clerical, ministerial, or not directly related to the securities business. For example, records would need to be retained for a consultant performing duties equivalent to those of an officer or a director of a broker-dealer, such as a chief financial officer; however, no records would be required for a consultant providing services related to a broker-dealer's health care plan. These records would be useful in determining whether individuals affiliated with a broker-dealer are engaged in sales activities and whether individuals who have been barred from association with broker-dealers are continuing their association.

[13] *See* Sections 3(a)(18) and (21). *See also* Sections 3(a)(32) and 3(a)(45).

[14] The Commission has taken the position that independent contractors involved in the sale of securities on behalf of a broker-dealer (who are not themselves registered as broker-dealers) must be "controlled by" the broker-dealer, and, therefore, are associated persons of the broker-dealer. *See, e.g., In the Matter of William* v. *Giordano*, 61 S.E.C. Dkt. 345, Exchange Act Release No. 36742 (Jan. 19, 1996)(In finding that an officer of a broker-dealer firm failed reasonably to supervise an independent contractor, the Commission found that the independent contractor was an "associated person" of the firm within the meaning of Section 3(a)(18) of the Exchange Act). *See also* Letter from SEC Division of Market Regulation, to Gordon S. Macklin, NASD; Charles J. Henry, CBOE; Robert J. Birnbaum, AMEX; and John J. Phelan, NYSE, [1982–1983 Transfer Binder] Fed. Sec. L. Rep. (CCH) P77,303 at 78,116 (June 18, 1982); *Hollinger* v. *Titan Capital Corp.*, 974 F.2d 1564, 1572–76 (9th Cir. 1990), *cert. denied*, 111 S. Ct. 1621 (1991). A similar analysis would be applicable to other persons, such as consultants and franchisees, performing securities activities with or for the broker-dealer.

C. Customer Account Records

The proposed amendments would have required broker-dealers to maintain for each customer account an account form that included basic identification and background information about the customer, including the customer's investment objectives. The Commission is reproposing Rule 17a–3(a)(16) with certain modifications to reflect the comments received regarding the proposed rule.

The reproposed amendments replace the term "account form" with "record of each account of a customer." The term was changed in response to comments that the word "form" could be interpreted to mean paper records only and that many broker-dealers store customer information electronically.

The reproposed amendments would apply only to accounts that have natural persons as the beneficial owners. With respect to joint accounts composed of natural persons, the Commission specifically solicits comment as to whether the required information should be kept for each individual participant in a joint account or only for those individuals with authority to execute transactions in the account.

As proposed, if a customer's investment objectives included speculation or other high risk objectives, the broker-dealer would have had to record the percentage of the customer's investment capital dedicated to such objectives. The proposed rule also would have required that the portion of the account form regarding the customer's investment objectives be updated annually. In response to this proposal, many commenters stated that a customer's investment objectives can change frequently; thus, a record of specific investment objectives could quickly become inaccurate. Commenters also stated that using the phrase "speculation or similar high-risk objective" to categorize a customer's investment objectives would be imprecise. The reproposed amendments would still require that a customer's investment objectives or risk tolerance be noted; however, as reproposed, each broker-dealer would be able to use whatever formulation it chooses to categorize each customer's investment objectives or risk tolerance. Further, the reproposed amendments would not require that a customer's investment objectives be updated annually; rather, as discussed below, the investment objectives would need to be updated at least once every 36 months. These requirements would allow examiners to more effectively review for compliance with suitability requirements.

The Proposing Release would have required broker-dealers to furnish to each customer a copy of the customer's account form within 30 days of the first trade for the account or within 30 days of a change or correction to the contents of the account form. The reproposed amendments modify the original proposal and would require that the customer account record be furnished to a customer within 30 days of opening the account and thereafter at least once every 36 months or when the account record is updated to reflect a change in the customer's name, address, or investment objectives. This requirement would provide customers the opportunity to verify and update the information in their records and correct any misunderstandings or errors. If the account record is updated to reflect a change of address, the broker-dealer would have to furnish the account record to the new address and a notice of the change of address to the old address. The Commission requests comment on whether a broker-dealer should include a customer's social security number when sending an updated account record to the customer.

The neglect, refusal, or inability of a customer to provide or update any required information for the customer's account record would excuse the broker-dealer from obtaining the required information. However, when opening the customer account, the broker-dealer would be required to make a record of the explanation for the absence of the information. Although the customer's refusal to provide this information to the broker-dealer would excuse the firm from obtaining the information under proposed rule 17a–3(a)(16), the firm would still be required to comply with any applicable securities regulatory authority rules regarding obtaining customer information.

For accounts existing on the effective date of the rule, the 36 month period would begin on the effective date of the rule amendment. If a customer's name, address, or investment objectives do not change within that 36 month period, the broker-dealer would have to furnish to the customer a copy of the customer's updated account record no later than 36 months from the effective date of the amendment. If a customer's name or address does change during the period, however, the broker-dealer would have to furnish to the customer a copy of the customer's updated account record within 30 days of the customer informing the broker-dealer of the change. In this situation, a new 36 month period would begin on the date

the updated information is furnished to the customer, provided, the entire account record is furnished to the customer. Likewise, any other subsequent change in the customer's name or address also would begin a new 36 month period.

For an account opened after the effective date of this rule amendment, the broker-dealer would be required to send an account record within 30 days of the opening of the account. Thereafter, the 36 month period would begin on the date the account is opened. Additionally, a new 36 month period would begin any time a broker-dealer furnishes a complete updated account record to a customer. Broker-dealers would be free, of course, to update account record information more frequently than the rule requires.

Reproposed Rule 17a–3(a)(16) would add a requirement that information be kept as to whether the customer is an associated person of a broker-dealer. If an account is a discretionary account, the record would have to contain the dated signature of each customer granting the discretionary authority over the account and the dated signature of each person to whom discretionary authority was granted. These requirements would assist examiners in identifying possible trading or sales practice violations, such as churning, trading ahead of customers, front-running, or possible manipulative activities involving controlled or nominee accounts.

The reproposed amendments would also require a broker-dealer to create a record indicating whether it has complied with applicable securities regulatory authority rules governing the information required when opening or updating a customer account.[15] This provision, for example, would apply to Exchange Act Rule 15g–9 which requires broker-dealers to follow certain procedures before effecting customer transactions in the penny stock market, Municipal Securities Rulemaking Board Rule G–8(a)(xi) which requires broker-dealers and municipal securities dealers to obtain certain customer information before effecting transactions in municipal securities, NASD Rule 3110 which requires broker-dealers to maintain certain customer account information, such as a customer's address and residence, NASD Rule 2860(b)(16) regarding the opening of options accounts, NASD Rule 2310 regarding information that must be obtained prior to making investment recommendations to customers, NYSE Rule 405 which requires NYSE members to use due diligence to learn the essential facts relative to every customer, and Chicago Board of Options Exchange Rule 9.7 which sets forth the requirements for opening a customer options account. This requirement would help the Commission staff and state securities regulators in reviewing for compliance with securities regulatory authority rules relating to customer information and sales practice violations. The Commission requests comment on whether there are other SRO or Commission rules relating to opening or updating customer accounts that would or should be included under this proposed recordkeeping requirement. Because many broker-dealers likely already keep such records, would this requirement impose any additional burden on broker-dealers? Are there any alternatives that would be less burdensome?

D. Customer Complaints

The Proposing Release would have required broker-dealers to maintain files of written materials relating to customer complaints and to make and keep written memoranda of oral customer complaints alleging certain types of fraud and theft. The reproposed amendments would not require broker-dealers to document oral complaints or require each local office to maintain a customer complaint file of all correspondence, memoranda, and other documents received in connection with the complaint. Instead, each broker-dealer would have to keep a record of written complaints against each associated person.[16] In addition, a broker-dealer would have to maintain for each local office a record of written complaints against each associated person that conducts business at that local office.[17] The records would have to include, among other things, a description of the nature of the complaint, the name of the complainant, and the disposition of the complaint. As an alternative to maintaining a record of each customer complaint, a broker-dealer may keep a copy of the written complaint along with a record of the disposition of the complaint. These complaint retention requirements would enable examiners to detect patterns of customer abuses, both within particular offices and firm wide.

Reproposed Rule 17a–3(a)(17)(ii) would require that broker-dealers create a record indicating that each customer has been notified of the address and telephone number of the department of the broker-dealer to which any complaints may be directed. This requirement would expand on an existing interpretation of the Commission's financial responsibility rules and the Securities Investor Protection Act of 1970, which states that, for purposes of custody of securities, for a broker-dealer to qualify as an introducing firm, its customers must be treated as customers of the clearing firm.[18] Furthermore, under that interpretation, the clearing firm must issue account statements directly to customers and each account statement must contain the name, address, and telephone number of a responsible individual at the clearing firm whom a customer can contact with inquiries and complaints regarding the customer's account. This reproposed requirement would apply to all firms carrying or clearing customer accounts in addition to those firms in an introducing/clearing arrangement.

E. Other Required Records

The Proposing Release would have required broker-dealers to create commission and compensation records for each associated person. The reproposed amendments would require essentially the same information as originally proposed, but would allow broker-dealers greater flexibility in how they can retain the records.[19] For example, in lieu of retaining the individual compensation records, broker-dealers would be permitted to store electronically the data necessary to produce the records.[20] Broker-dealers that choose this option would be required to produce the records upon request. Additionally, the reproposed amendments would clarify that records must be kept for non-monetary as well as monetary compensation. This would assist examiners in detecting sales practice violations tied to a firm's compensation practices.

The Proposing Release would have required broker-dealers to produce reports to monitor unusual occurrences in customer accounts such as frequent trading, unusually high commissions, or an unusually high number of trade corrections or cancellations. The reproposed amendments would not require broker-dealers to make these types of reports, but instead, would require broker-dealers to retain these reports, if created, or be able to recreate them upon request.[21] Because this provision would now be a record

[15] Reproposed Rule 17a–3(a)(16)(ii).

[16] Reproposed Rule 17a–3(a)(17).

[17] *See* Reproposed Rule 17a–3(f).

[18] Exchange Act Release No. 31511 (Nov. 24, 1992), 57 FR 56973 (Dec. 2, 1992).

[19] Reproposed Rule 17a–3(a)(18).

[20] *See* Reproposed Rule 17a–3(f).

[21] Reproposed Rule 17a–4(b)(11).

retention requirement, it has been moved to Rule 17a–4. These requirements would assist examiners in identifying violations such as churning and unauthorized trading. The Commission requests comment on whether the requirement that these reports be kept for three years is appropriate.

F. Local Office

The definition of a local office is significant because broker-dealers must create records regarding activities in each local office and maintain a copy of certain records at that local office. This section discusses the reproposed definition of local office, the records that would be required to be maintained at each local office, alternative means of record retention for local offices, and state record depositories for those offices that do not qualify as local offices.

1. Definition of Local Office

The reproposed amendments would modify the definition of "local office" to include locations where two or more associated persons regularly conduct a securities business.[22] This definition has been modified from the Proposing Release, which would have included one-person offices in the definition, primarily in response to comments from broker-dealers that have many one-person offices or have associated persons who work from their homes. In these instances, records currently are stored at centralized locations maintained by the broker-dealers. Commenters stated that requiring records to be maintained at a one-person office or at an associated person's home would be extremely burdensome and could interfere with a broker-dealer's supervisory duties. By reproposing the definition of local office to include an office with two or more associated persons, the Commission has attempted to eliminate those situations in which a broker-dealer has minimal presence at a particular location, such as one associated person at a bank branch, while still providing securities regulatory authorities with local access to office records of a broker-dealer.

The Commission requests comment on whether, and if so, how many and why, a higher number of associated persons would be appropriate for the definition of local office. The Commission requests commenters to provide, if applicable, information on the number of offices in each state that would fall within the reproposed definition of a local office, the number of offices that would fall within the definition suggested by the commenter, and the total number of offices for that broker-dealer firm. Commenters also should specify what percentage of the firm's business is conducted at the local offices as defined under the reproposed amendments and under any alternative definitions suggested by the commenter.

2. Local Office Records

The reproposed amendments would require broker-dealers to make and keep separately for each local office records including blotters, broker and dealer order tickets, customer account records, customer complaints, evidence of compliance with securities regulatory authority rules, a list of state record depositories, names of persons capable of explaining the records, and names of any principals responsible for establishing policies and procedures, and records relating to the associated persons at each local office including employment agreements, identification numbers, compensation agreements, sales records relating to associated person compensation, and chronological sales records.[23] Keeping these records regarding each local office would assist securities regulators by enabling them to conduct focused localized examinations of particular offices and identify abusive activities that may be isolated to that office.

3. Record Retention at Local Offices

The reproposed amendments would require broker-dealers to make available at the respective local office certain records, including blotters of the local office's activities, memoranda of brokerage orders and dealer transactions, customer account records, customer complaints, and associated person records (collectively "Local Office Records").[24] The Commission is now proposing that Local Office Records be kept at the local office for the most recent one year period. Requiring a year's worth of Local Office Records at the local office should provide securities regulators with sufficient records to conduct examinations of local offices while not imposing unnecessary burdens on broker-dealers. After a year, broker-dealers would still be required to keep Local Office Records at their headquarters office or some other centralized location, subject to the accessibility requirements of Rules 17a–4(a) and (b).

The Commission is seeking comment on whether state securities regulators should have authority to waive the requirement that a broker-dealer keep Local Office Records at local offices within their respective states. The Commission also seeks comment on whether the reproposed record retention period of one year for local offices is appropriate.

4. Alternative Means of Record Retention

The Commission recognizes that some broker-dealers have recordkeeping systems that are more technologically advanced than others. These systems should enable broker-dealers to provide securities regulators with records at a local office in a timely manner without actually keeping the records at a local office. Therefore, the Commission is proposing an alternative means for satisfying the local office recordkeeping requirements. A broker-dealer's capability to produce printed copies of Local Office Records in a local office the same day the request for the records is made, or within a reasonable time under certain unusual circumstances, would satisfy the local office recordkeeping requirements.[25] By proposing an unusual circumstance exception, the Commission is addressing situations in which the broker-dealer has made a good faith effort to produce the records, but meets an unexpected delay in the production of the records. For example, the broker-dealer may experience a computer communication failure that cannot be immediately rectified by a local office. In contrast, the absence of a person authorized by the broker-dealer to deliver the records would not be an acceptable reason for delaying delivery of the requested records.

5. Promptly Furnishing Records at Local Offices

As proposed, the definition of the term "promptly" would have specified that requested records must be produced immediately for records located in the office where a request is made and within three business days for records that are not located in the office. These amendments were proposed so that securities regulators would have prompt access to records while they were conducting examinations at local offices. The reproposed amendments have been modified to reduce the burden that the proposed amendments would have placed on broker-dealers by allowing broker-dealers to use the alternative means of record retention discussed above.[26]

[22] Reproposed Rule 17a–3(g)(1).

[23] Reproposed Rule 17a–3(f).

[24] Reproposed Rule 17a–4(k).

[25] Reproposed Rule 17a–4(k)(1).

[26] *Id.*

G. State Record Depositories for Offices Not Meeting the Local Office Definition

The reproposed rules modify the proposed definition of local office to include offices with two or more associated persons. As to offices with only one associated person, the Commission is reproposing that those records may be stored at a state record depository. The state record depository would have to be located in the same state in which the office (or offices) not meeting the definition of local office is located. Further, with respect to an associated person who works out of more than one office, a state record depository would have to be located in each state in which the associated person conducts business. The Commission recognizes that this may place an additional burden on some broker-dealers; however, the Commission believes that to support examinations by state securities regulators, these associated person records must be available in the state in which that person is active. The Commission requests comment on whether, to what extent, and under what circumstances a state should be permitted to waive the state record depository requirement for broker-dealers conducting business in its state.

H. Records Regarding Approval of Communications

The proposed amendments would have required a record be kept indicating whether outgoing communications had been approved by a principal. The reproposed amendments modify that proposal to require that a broker-dealer retain any written approvals of outgoing communications sent and any written procedures it uses for reviewing outgoing communications. This change reflects the recent amendments to SRO rules which permit member firms to establish reasonable procedures for reviewing a registered representative's communications with the public.[27] The Commission also is proposing to add a requirement that broker-dealers maintain a record of any written procedures for reviewing marketing materials and a record listing each principal of a broker-dealer responsible for establishing policies and procedures to ensure compliance with applicable regulations of a securities regulatory authority that require approval of a record by a principal.[28] These requirements are designed to allow easier examination for sales practice abuses, such as unauthorized trading, suitability, churning, and other misrepresentations.

I. Audit and Examination Reports

The proposed amendments would have required broker-dealers to keep for at least three years all audit or examination reports prepared by a person other than the broker-dealer. Several commenters stated that this requirement is not warranted because it might discourage self-critical evaluations of a firm's business, particularly if the firm would be required to share the report with regulators that may not have authority to protect the confidentiality of the reports. In light of this, the Commission is reproposing the requirement that each broker-dealer keep for three years all reports requested or required by a securities regulatory authority and any securities regulatory authority examination reports.[29] This requirement would help avoid unnecessary duplication in examinations. The Commission requests comment on whether there are any reasons why broker-dealers should not be required to keep such reports (for example, confidentiality concerns arising from particular state law requirements).

J. Technical Amendments

On February 5, 1997, the Commission amended Rule 17a–4 to allow broker-dealers to employ, under certain conditions, electronic storage media to maintain its records.[30] The Commission is now proposing technical amendments to that rule.[31] The Electronic Storage Media Release provided that a broker-dealer that employs micrographic or electronic storage media must be ready at all times to immediately provide a facsimile enlargement upon request by the Commission or its representatives.[32] It also provided that for a broker-dealer that uses electronic storage media, a third party download provider must file undertakings with that broker-dealer's designated examining authority indicating that it will furnish promptly to the Commission, its designees or representatives, the information necessary to download information kept on a broker-dealer's electronic storage media.[33] Because SROs and state securities regulators are neither representatives nor designees of the Commission but, to the extent that they have jurisdiction over the broker-dealer serviced by the third party download provider, are organizations that should have access to facsimile enlargements and download information, the Commission is proposing technical amendments to provide them with access to these records.

IV. General Request for Comments

The Commission invites interested persons to submit written comments on all the reproposed amendments. Also, the Commission specifically requests comments concerning the definition of local office; the one year record retention period for local office records; and the retention and production of external audit, examination, and consulting reports.

The Commission requests comment regarding whether there are alternative books and records requirements that would facilitate examination of local offices and review of sales and trading practices. Are there any other records, in addition to compensation records, that the Commission should require broker-dealers to retain that would show sales incentives?

Is it necessary for Commission rules to also provide for state regulator access to books and records? Are there other measures the Commission could undertake to promote cooperation and coordination with state securities regulators regarding examinations and enforcement actions regarding broker-dealers? Are there alternatives to the local office requirements that would similarly expedite examinations away from a broker-dealer's home office?

With respect to the proposed requirement that broker-dealers be able to demonstrate compliance with certain SRO and state securities regulatory requirements, is there an alternative way for securities regulators to obtain this information? Are there other types of records that would contain information that securities regulators may use to identify potential regulatory concerns?

V. Effects on Efficiency, Competition, and Capital Formation

Section 23(a) of the Exchange Act requires the Commission, in adopting rules under the Exchange Act, to consider any impact on competition and to not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the Act.[34] Pursuant to Section 3(f) of the Exchange Act, when the Commission

[27] *See* Exchange Act Release No. 39510 (Dec. 31, 1997), 63 FR 1131 (Jan. 8, 1998) and Exchange Act Release No. 39511 (Dec. 31, 1997), 63 FR 1135 (Jan. 8, 1998).

[28] Reproposed Rule 17a–4(b)(10).

[29] Reproposed Rule 17a–4(e)(5).

[30] Exchange Act Release No. 38245 (Feb. 5, 1997), 62 FR 6469 (Feb. 12, 1997) ("Electronic Storage Media Release").

[31] Rule 17a–4(f).

[32] *See* Rule 17a–4(f)(3)(i).

[33] *See* Rule 17a–4(f)(3)(vii).

[34] *See* 15 U.S.C. 78w(a)(2).

considers whether an action is necessary or appropriate in the public interest, the Commission considers whether the action will promote efficiency, competition, and capital formation, in addition to the protection of investors. The Commission is considering the reproposed amendments to Rules 17a–3 and 17a–4 in light of these standards, and the Commission believes that any burden imposed by the reproposed amendments should be justified by the enhanced investor protection described above. In addition, by improving examination capabilities, the reproposed amendments should improve investor confidence in broker-dealer firms and help maintain fair and orderly markets. The requirements would apply to all broker-dealers that conduct business with the general public. Larger broker-dealers would have correspondingly greater obligations under the amendments. Accordingly, any burden on broker-dealer competition should be slight, especially in light of the significant regulatory benefits and investor protection purposes discussed above. The Commission solicits comment on any effect on efficiency, competition, or capital formation the reproposed amendments may have.

VI. Costs and Benefits of the Proposed Amendments and Their Effects on Competition

To assist the Commission in its evaluation of the costs and benefits that may result from the reproposed amendments to Rules 17a–3 and 17a–4, commenters are requested to provide information relating to costs and benefits associated with any of the proposals herein.

The requirements of reproposed rules 17a–3 and 17a–4 are discussed together rather than separately because the underlying purposes for both making and keeping the reproposed records are so closely related. However, because the Commission requests specific comment on the costs and benefits, including specific estimates of hour and dollar burdens that may result from these reproposed amendments, commenters may wish to discuss each rule and the subparts of each rule individually.

A. Benefits

The reproposed amendments should result in increased efficiency and effectiveness of broker-dealer examinations especially with respect to local offices. The enhanced recordkeeping requirements would also provide critical information necessary for securities regulatory authorities to discover and take appropriate action for various securities violations, particularly, sales practice violations.

Generally, the reproposed amendments would require additional information in four main areas including (1) customer information, (2) associated person information, (3) transaction information (*i.e.*, purchases and sales), and (4) local office information. The reproposed rules relating to additional customer information (*i.e.*, the account record) would provide a clear and relatively current record of customer information, including a customer's financial profile and investment objectives. This record would provide securities regulators with information to enable them to determine whether transactions in particular securities were suitable for a customer.

The reproposed amendments relating to associated person information can be further broken down into two categories including compensation records and complaint records organized according to associated person. First, the compensation records would help provide securities regulators with insight into why associated persons may have conducted certain transactions. For example, the compensation records would allow securities regulators to determine whether financial or other incentives existed that may have led an associated person to engage in excessive transactions. Second, the complaint records organized according to registered representative would allow securities regulators to determine whether an associated person has engaged or is continuing to engage in certain securities violations such as sales practice abuses.

The reproposed amendments relating to transactions would require broker-dealers to include on order tickets, among other things, the time the order was received, the identity of the associated person responsible for the account, and the identity of any other person who accepted or entered the order. First, the requirement that an order ticket note the time the order was received would allow securities regulators to determine whether the broker-dealer executed the transaction in a timely manner and in compliance with applicable regulations. Second, indicating on the order ticket the identity of the associated person responsible for the account as well as the identity of any other person who entered or accepted the order would provide securities regulators with insight into a variety of abusive activities. For example, securities regulators would be better able to identify situations in which a person who was barred from the industry was, nevertheless, continuing to associate with a broker-dealer by entering orders under another person's name. Additionally, the records could help reveal that a broker-dealer was engaging in boiler room activities in situations in which numerous associated persons were accepting and entering orders under one associated person's name.

With respect to local office information, the requirement that certain records be kept for each local office would allow securities regulators to conduct a focused localized exam of a particular office and identify abusive activities that may be isolated to that office. Further, requiring broker-dealers to store certain records at local offices would allow securities regulators to conduct more effective and thorough examinations because they would be able to conduct the examinations on-site where they could review the pertinent records and interview various employees regarding the contents of those records. Additionally, making the records available at the local office is important to reduce the potential for alteration or fabrication of records when requested. Finally, requiring broker-dealers to maintain or make available particular records at local offices would help facilitate examinations by state securities regulators because the records would be located within that regulator's jurisdiction.

B. Costs

Many of the records required under the reproposed amendments already are required under SRO rules, thus, tempering the impact of the reproposed amendments on broker-dealers. However, the Commission recognizes that compliance with the reproposed rules may require broker-dealers to make certain adjustments to their current systems and methods of record creation and storage.

The Commission believes that the bulk of the additional costs of the reproposed amendments would result from three areas: (1) the requirement that account records be updated; (2) the requirement that certain records regarding local offices be made; and (3) the requirement that records be stored at or made available at local offices or state record depositories.[35] Accordingly, the Commission has included certain provisions in the reproposed amendments that should lessen the impact on broker-dealers. For example, rather than storing hard copies of certain records, local offices may use a

[35] The Paperwork Reduction Act section of this release contains additional information relating to costs.

system, which could range from ordinary E-Mail to a Local Area Network system to an intranet system, capable of producing printed copies of the records at the local office. The Commission believes that many broker-dealers already have in place systems that are capable of transmitting the information between offices immediately or on the same business day. This provision should provide securities regulators with timely access to records without requiring broker-dealers to actually produce and store in hard copy format every record required under the reproposed rules. The Commission seeks comment on alternative systems or methods of storing records or providing local offices and state record depositories with timely access to records.

In some instances, the reproposed amendments provide that broker-dealers may choose between alternative methods of recordkeeping. For example, the reproposed amendments relating to the contents of an order ticket would add the requirement that order tickets contain, among other things, the identity of each associated person and any other person who entered or accepted the order. However, if the broker-dealer's system is incapable of receiving an entry for any other person or if the alteration to the system would be costly, the broker-dealer would not have to alter its system; rather, the broker-dealer may make a separate record of the additional persons who enter or accept orders.

VII. Summary of Initial Regulatory Flexibility Analysis

In accordance with 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis ("IRFA") concerning the reproposed amendments. The IRFA notes that the purpose of the reproposed amendments is to enhance the ability of securities regulators to protect investors through more effective and efficient examinations and enforcement proceedings. The Commission believes that the reproposed amendments are necessary to ensure that registered broker-dealers keep books and records that are sufficient to permit securities regulators to conduct complete sales practice and operational examinations. The IRFA further states that the reproposed amendments would affect all broker-dealers, including the approximately 1,389 small broker-dealers, but notes that the requirements of the reproposed amendments were designed to minimize additional burdens. It also states that the reproposed amendments may require broker-dealers to adjust their record making and keeping practices and to update certain customer information records every 36 months. The IRFA states that no federal securities laws duplicate, overlap, or conflict with the reproposed amendments and that the Commission does not believe that any less burdensome alternatives are available to accomplish the objectives of the reproposed amendments.

The Commission encourages the submission of written comments with respect to any aspect of the IRFA. If the reproposed amendments are adopted, written comments will be considered in preparation of the Final Regulatory Flexibility Analysis. Comments will be placed in the same public file as that designated for the reproposed amendments. A copy of the IRFA may be obtained by contacting Deana A. La Barbera, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 10–1, Washington, D.C. 20549, (202) 942–0734.

VIII. Paperwork Reduction Act

Certain provisions of the reproposed amendments contain "collection of information" requirements within the meaning of the Paperwork Reduction Act of 1995.[36] The Commission has submitted the reproposed amendments to the Office of Management and Budget ("OMB") for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11 under the title "Reproposed Books and Records Amendments."

A. Collection of Information Under Reproposed Books and Records Amendments

As discussed previously in this release, the Reproposed Books and Records Amendments would require registered broker-dealers to maintain additional records with respect to purchase and sale documents, customer information, associated person information, customer complaints, and certain other matters.

B. Proposed Use of Information

The information collected pursuant to the Reproposed Books and Records Amendments would be used by the Commission, self-regulatory organizations, and other securities regulatory authorities for examinations and enforcement proceedings regarding broker-dealers and associated persons. No governmental agency would regularly receive any of the information described above. Instead, the information would be stored by the registered broker-dealer and made available to the various securities regulatory authorities for examinations and enforcement proceedings. To comply with the reproposed amendments that require broker-dealers to update customer account records at least every 36 months, broker-dealers would have to furnish their customers with a copy of the account record. This requirement and the estimated burden associated with it are discussed in detail in section D below.

C. Respondents

The Reproposed Books and Records Amendments would apply to all the approximately 7,769 active broker-dealers[37] that are registered with the Commission. Most of the provisions of the Reproposed Books and Records Amendments would apply only to the approximately 5,400 broker-dealers that conduct business with the general public; this is because most of the provisions relate to a broker-dealer's and its associated persons' dealings with customers (*e.g.*, the requirement that broker-dealers update customer account records).

D. Total Annual Reporting and Recordkeeping Burden

The hour burden of the Reproposed Books and Records Amendments would vary widely because of differences in the levels of activities of the respondents and because of differences in the current recordkeeping systems of the respondents. Therefore, the estimates in this section are based on averages among the various types and sizes of broker-dealer firms. Most of the requirements of the Reproposed Books and Records Amendments involve collections of information that typical broker-dealers already maintain under customary and usual business practices or in compliance with SRO rules.

The reproposed amendments modify Rule 17a–3 by, among other things, requiring broker-dealers to update customer account records at least every 36 months. Broker-dealers currently maintain approximately 60,000,000 customer accounts. Because the account records must be updated at least once every 36 months, the Commission estimates that, on average, the account records of one-third of the total accounts (*i.e.* 20,000,000) would have to be updated each year. To comply with this

[36] 44 U.S.C. 3501 *et seq.*

[37] Of approximately 8,500 broker-dealers registered with the Commission, approximately 450 are not yet active because their registration is pending SRO approval and approximately 300 are inactive because they have ceased doing a securities business and have filed a Form BDW with the Commission.

requirement, broker-dealers would have to furnish customers with the existing account record and request that the customer make any necessary changes. However, the Commission believes that not every account record will be changed in response to the broker-dealer's request for updated information because the account record may still be current or the customer may elect not to respond. The Commission estimates that approximately 10% of the requests for updated information will result in changes to the record resulting in 2,000,000 (10% of ⅓ of total customer accounts) updated account records each year. The Commission estimates that it will take, on average, 10 seconds to furnish the account record to each customer. The Commission further estimates that it will take, on average, five minutes for a broker-dealer to update each account record. This estimate takes into account the amount of time it would take to receive the returned data and input any changes into the account record. Additionally, this time estimate takes into account that certain SRO rules already require broker-dealers to maintain current information about their customers and that broker-dealers maintain current account record information in the ordinary course of business.

Therefore, the Commission estimates that the requirement that broker-dealers update account records would require approximately 222,223 hours each year; this is derived from 55,556 hours to furnish the account records to customers (20,000,000 account records × 10 seconds / 60 seconds / 60 minutes) plus 166,667 hours each year to receive and input the updated information (2,000,000 account records × 5 minutes / 60 minutes)[38]

In addition to the account record updating requirement, the Reproposed Books and Records Rules would require broker-dealers to keep certain records regarding their associated persons, including agreements pertaining to the associated person's relationship with the broker-dealer, compensation arrangements, identification numbers, the office at which each associated person's records are stored,[39] each associated person's compensation for each transaction,[40] and a chronological sales record.[41] With the exception of the compensation record and chronological sales record, the records are the type of records that would be updated infrequently. Additionally, the Commission believes that all these records are the type of records that broker-dealers would keep in the ordinary course of business. Therefore, the Commission estimates that, on average, these records would require a broker-dealer to spend approximately 30 minutes each year to ensure that it is in compliance with the reproposed amendments.

The reproposed amendments also would require broker-dealers to make records which indicate that they have complied with any applicable regulations of securities regulatory authorities,[42] and which list persons who can explain the information in the broker-dealer's records,[43] each principal responsible for establishing compliance policies and procedures,[44] and each office designated as a state record depository.[45] The Commission believes that the information required under each of these rules would be readily available to broker-dealers and is the type of information that would change infrequently. Therefore, the Commission estimates that, on average, a broker-dealer would spend approximately 10 minutes each year to ensure that it is in compliance with these requirements.

The reproposed amendments also would require that broker-dealers keep a record of customer complaints.[46] Broker-dealers already are required to keep this information under existing SRO rules; however, under the reproposed rules, the record must be made available at the local office or state record depository. The Commission believes that because broker-dealers already maintain these records, any additional burden resulting from this requirement would be nominal. Therefore, the Commission estimates that, on average, the burden would be 20 minutes per broker-dealer each year to ensure that it is in compliance with this rule.

The reproposed amendments relating to order tickets would require that broker-dealers note the time the order was received and the name of any person other than the associated person responsible for the account who accepted or executed the order.[47] The Commission believes that, in the ordinary course of business, most broker-dealers already note on the order ticket the time the order was received; therefore, this requirement would not impose an additional burden on broker-dealers.

The degree of the burden imposed by the requirement that any additional person be noted on the order ticket depends largely upon the business practices of the individual firms and their current recordkeeping systems; therefore, it is difficult for the Commission to provide an accurate estimate of the burden associated with this requirement. The Commission believes, however, that any additional burden would be nominal because the requirement may be satisfied by a minor notation on the order ticket or on a separate record.

In total, the Commission estimates that compliance with the Reproposed Books and Records Rules for Rule 17a–3 would require an additional 229,992 hours per year ((222,223 hours (annualized account record updating) + 7,769 hours[48] (one hour per broker-dealer each year for the balance of the additional rules)). Therefore, the current OMB inventory of 1,941,062 hours for Rule 17a–3 would increase by 229,992 hours to 2,171,054 hours.

The Reproposed Books and Records Rules would modify Rule 17a–4 by requiring broker-dealers to maintain additional books and records, including materials used by a broker-dealer to offer or sell securities, copies of reports produced to review activity in customer accounts, and a record listing all persons who are qualified to explain a broker-dealer's books and records. The reproposed amendments to Rule 17a–4 also would require broker-dealers to make available certain records at the local offices or state record depositories. The reproposed amendments provide that broker-dealers may retain the records in a system capable of producing the records upon request, which should minimize additional record retention burdens on broker-dealers. Also, as discussed above, most of the additional records already are maintained by the broker-dealers; therefore, the majority of the additional burden would result from the requirement that broker-dealers retain

[38] The Commission staff estimates that the approximate administrative and labor costs to broker-dealers to comply with this requirement would be $25 per hour (based on an annual salary of $52,000) resulting in a total annual cost of $5,555,575 (based on $25 per hour multiplied by 222,223 burden hours). This estimate does not include any systems costs.

[39] Reproposed Rule 17a–3(a)(12).

[40] Reproposed Rule 17a–3(a)(18).

[41] Reproposed Rule 17a–3(a)(20).

[42] Reproposed Rule 17a–3(a)(19).

[43] Reproposed Rule 17a–3(a)(21).

[44] Reproposed Rule 17a–3(a)(22).

[45] Reproposed Rule 17a–3(a)(23).

[46] Reproposed Rule 17a–3(a)(17).

[47] Reproposed Rules 17a–3(a)(6) and (a)(7).

[48] The Commission staff estimates that the approximate cost to broker-dealers to comply with this requirement would be $48.08 per hour (based on an annual salary of $100,000) including the value of professional staff compensation and related overhead resulting in a total annual cost of $373,534 (based on $48.08 per hour multiplied by 7,769 burden hours). This estimate does not include any systems costs.

records at local offices or state record depositories.

Based on the information above, the Commission estimates that, on average, each broker-dealer would spend one business day each year to ensure that it is in compliance with the reproposed amendments to Rule 17a–4 and to ensure that the records are available at local offices and state record depositories. Therefore, the current OMB inventory for Rule 17a–4 of 2,127,125 hours would be increased by 62,152 hours (7,769 active broker-dealers × 8 hours) resulting in a total of 2,189,277 hours.[49]

E. General Information About the Collection of Information

The collection of information under the Reproposed Books and Records Amendments would be mandatory. The information collected pursuant to Rules 17a–3(a)(17), (21), (22), and (23) would be retained for six years. The information collected pursuant to Rules 17a–3(a)(18), (19), and (20), 17a–4(b) (4), (7), (10), and (11), and 17a–4(e)(5) would be retained for three years. The information collected pursuant to Rule 17a–3(a)(16) would be retained for six years after the closing of the related customer's account. The information collected pursuant to Rule 17a–4(d) would be retained for the life of the enterprise or any successor enterprise. The information collected pursuant to Rule 17a–3(a)(20) would be retained for three years. The information collected pursuant to Rule 17a–4(e)(6) would be retained for three years after the date of the termination of use of the information. In general, the information collected pursuant to the Reproposed Books and Records Amendments would be held by the respondent. The Commission, self-regulatory organizations, and other securities regulatory authorities would only gain possession of the information upon request. Any information received by the Commission pursuant to the Reproposed Books and Records Amendments would be kept confidential, subject to the provisions of the Freedom of Information Act, 5 U.S.C. 552.

F. Request for Comment

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proposed performance of the functions of the Commission, including whether the information shall have practical utility;

(ii) Evaluate the accuracy of the Commission's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those required to respond, including through the use of automated collection techniques or other forms of information technology.

Persons desiring to submit comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, D.C. 20503, and should also send a copy of their comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Mail Stop 6–2, Washington, D.C. 20549, and refer to File No. S7–26–98. OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication of this release in the **Federal Register**, therefore, comments to OMB are best assured of having full effect if OMB receives them within 30 days of this publication.

IX. Statutory Analysis

The amendments are proposed pursuant to the authority conferred on the Commission by the Exchange Act, including Sections 17(a) and 23(a).

List of Subjects in 17 CFR Part 240

Brokers, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, Title 17 Chapter II of the Code of Federal Regulation is proposed to be amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Section 240.17a–3 is amended by revising paragraphs (a)(6), (a)(7), and (a)(12)(ii), and adding paragraphs (a)(12)(iii), (a)(12)(iv), (a)(12)(v), (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), (a)(22), (a)(23), (f) and (g) to read as follows:

§ 240.17a–3 Records to be made by certain exchange members, brokers and dealers.

(a) * * *

(6) A memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of securities, whether executed or unexecuted. The memorandum shall show the terms and conditions of the order or instructions and of any modification or cancellation thereof; the account for which entered; the time the order was received; the time of entry; the price at which executed; the time of execution or cancellation, to the extent feasible; and, except as otherwise provided in this paragraph, the identity of each associated person responsible for the account and any other person who entered or accepted the order on behalf of the customer. If a person other than the associated person responsible for the account entered the order into an electronic system that generates the required memorandum and the system is not capable of receiving an entry of the identity of any person other than the responsible associated person, the member, broker or dealer shall create a separate record which identifies each other person upon request. An order entered pursuant to the exercise of discretionary power by the member, broker or dealer, or associated person or other employee thereof, shall be so designated. The term *instruction* shall include instructions between partners and employees of a member, broker or dealer. The term *time of entry* shall mean the time when the member, broker or dealer transmits the order or instruction for execution.

(7) A memorandum of each purchase and sale for the account of the member, broker, or dealer showing the price and, to the extent feasible, the time of execution; and, in addition, where the purchase or sale is with a customer other than a broker or dealer, a memorandum of each order received showing the terms and conditions of the order or instructions and of any modification or cancellation thereof; the account for which entered; the time the order was received; the time of entry; the price at which executed; the time of execution or cancellation, to the extent feasible; and, except as otherwise provided in this paragraph, the identity of each associated person responsible for the account and any other person

[49] The Commission staff estimates that the approximate professional labor costs to the broker-dealer industry to comply with this requirement would be $48.08 per hour (based on an annual salary of $100,000) resulting annual cost of $2,988,268 (based on $48.08 per hour multiplied by 62,152 burden hours). This estimate does not include any systems costs.

who entered or accepted the order on behalf of the customer. If a person other than the associated person responsible for the account entered the order into an electronic system that generates the required memorandum and the system is not capable of receiving an entry of the identity of any person other than the responsible associated person, the member, broker or dealer shall create a separate record which identifies each other person upon request. Orders entered pursuant to the exercise of discretionary power by the member, broker or dealer, or associated person or other employee thereof, shall be so designated. The term *instruction* shall include instructions between partners and employees of a member, broker or dealer. The term *time of entry* shall mean the time when the member, broker or dealer transmits the order or instruction for execution.

* * * * *

(12) * * *

(ii) A record of all agreements pertaining to the relationship between each associated person and the member, broker or dealer.

(iii) A record containing a summary of each associated person's compensation arrangement or plan with the member, broker or dealer, including commission schedules.

(iv) A record identifying any internal identification number assigned to each associated person by a member, broker or dealer and the Central Registration Depository number, if any, assigned to each associated person.

(v) A record listing each associated person on behalf of the member, broker or dealer including the office of the member, broker or dealer out of which the associated person works and the local office or state record depository the records pertaining to that associated person are preserved pursuant to § 240.17a–4.

* * * * *

(16) For each account that has a natural person as the beneficial owner (including a joint account with one or more natural persons as the beneficial owners):

(i)(A) An account record containing the customer's name, Social Security number (or other tax identification number), address and telephone number, date of birth, marital status, number of dependents, employment status (including occupation and whether the customer is an associated person of a member, broker or dealer), annual income and net worth (excluding value of primary residence), and investment objectives or risk tolerance. In the case of a joint account, the information shall be included for each individual on the joint account. The account record shall indicate that it has been approved by the associated person responsible for the account and by a principal of the member, broker or dealer. If an account is a discretionary account, the record must contain the dated signature of each customer granting the discretionary authority and the dated signature of each person to whom discretionary authority was granted.

(B)(*1*) Every member, broker or dealer shall furnish to each customer within 30 days of opening the account and thereafter at least once every 36 months (at intervals no greater than 36 months) a copy of the customer's account record or an alternate document with all information required by paragraph (a)(16)(i)(A) of this section. For an account existing on [the effective date of the final rule], the initial 36 month period shall begin on [the effective date of the final rule]. For an account opened after [the effective date of the final rule] the initial 36 month period shall begin on the day the initial account record is sent to the customer

(*2*) For each account record of a customer updated to reflect a change in the name, address, or investment objectives of the customer, a member, broker or dealer shall furnish to that customer, no later than 30 calendar days after the date it received notice of the change of name, address, or investment objectives, a copy of that customer's account record or an alternate document containing all required information set forth on the account record. If the account is updated to reflect a change of address, the member, broker or dealer shall furnish the account record to the new address and a notice of the change of address to the old address.

(*3*) The account record or alternate document furnished to the customer shall include or be accompanied by a prominent statement advising the customer that, if any information on the account record or alternate document is incorrect, the customer should mark any corrections and return the account record or alternate document to the member, broker or dealer. Within 30 calendar days of receipt from a customer any corrections or changes to the contents of an account record or alternate document, a member, broker or dealer shall furnish a copy of the revised account record or alternate document to the customer and to the associated person who is responsible for that customer's account.

(C) The neglect, refusal, or inability of a customer to provide or update any required information for the customer's account record shall excuse the member, broker or dealer from obtaining the required information. The member, broker or dealer shall make a record of its failure to obtain the required information when opening the account. The record shall contain an explanation of the neglect, refusal, or inability of the customer to provide the required information and the name of the person that recorded the neglect, refusal, or inability on behalf of the member, broker or dealer.

(ii) A record, which need not be separate from the account record, for each account opened or updated after [the effective date of the final rule] indicating compliance with any applicable regulations of a securities regulatory authority that require certain information about a customer be obtained when opening or updating a customer account. This record shall include the date the member, broker or dealer fulfilled its obligations regarding the opening or updating of the customer account under any applicable regulations of a securities regulatory authority.

(iii) A record indicating that the customer was furnished with a copy of any written agreement pertaining to the customer's account. If a member, broker or dealer furnishes to a customer a copy of any written agreement that does not include the customer's signature, upon request, the customer shall be furnished with a signed copy of the written agreement pertaining to the customer's account.

(17)(i) A record as to each associated person of each written customer complaint received by the member, broker or dealer concerning that associated person. The record shall include, at least, the complainant's name, address, and account number; the date the complaint was received; the name of any associated person identified in the complaint; a description of the nature of the complaint; and the disposition of the complaint. Instead of the record, a member, broker or dealer may maintain a copy of the original complaint along with a record of the disposition of the complaint.

(ii) A record indicating that each customer of the member, broker or dealer has been provided with a notice containing the address and telephone number of the department of the member, broker or dealer to which any complaints may be directed.

(18) A record as to each associated person listing all purchases and sales of securities for which the associated person was compensated, the amount of compensation (whether monetary or

nonmonetary), and the specific security involved. To the extent that compensation is based on factors other than remuneration per trade, such as a total production credit or bonus system, the member, broker or dealer must be able to demonstrate and to document upon request the method by which the compensation is determined. In lieu of making these records, a member, broker or dealer may maintain, through electronic means, the data necessary to promptly create the records upon request.

(19) A record indicating compliance with any applicable regulations of a securities regulatory authority which require that materials used by a member, broker or dealer or any associated person to offer or sell any security have been approved by a principal. These materials may include advertisements, marketing materials, sales scripts, and other paper or electronic material, such as audio or video tapes. This provision does not apply to those materials used only for internal purposes.

(20) A record as to each associated person listing chronologically all customer purchase or sale transactions for which the associated person entered the orders or was primarily responsible for the customer's account.

(21) A record listing all persons who, without delay, can explain the information contained in the records (or type of records) required pursuant to this section and those records required to be retained pursuant to § 240.17a–4.

(22) A record listing each principal of a member, broker or dealer responsible for establishing policies and procedures that are reasonably designed to ensure compliance with any applicable regulations of a securities regulatory authority that require acceptance or approval of a record by a principal.

(23) A record listing each office of a member, broker or dealer indicating whether the office is a local office or has been designated as a state record depository, and listing each associated person working out of or storing records at that office.

* * * * *

(f) Every member, broker or dealer shall make and keep current, separately for each office, the books and records described in paragraphs (a)(1), (a)(6), (a)(7), (a)(12), (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), (a)(22) and (a)(23) of this section reflecting the activities of that office. This requirement may be satisfied by demonstrating that the data is maintained in a system which is capable of promptly generating the records for each office upon request.

(g) When used in this section:

(1) The term *local office* means any location where two or more associated persons regularly conduct the business of handling funds or securities or effecting any transactions in, or inducing or attempting to induce the purchase or sale of any security, or otherwise soliciting transactions or accounts for a member, broker or dealer.

(2) The term *principal* means any individual registered with the National Association of Securities Dealers Regulation, Inc. as a principal or branch manager of a member, broker or dealer.

(3) The term *securities regulatory authority* means the Commission, any state securities regulatory agency authorized by law to examine members, brokers or dealers subject to its jurisdiction, or any self-regulatory organization.

3. Section 240.17a–4 is amended by revising paragraph (a), the introductory text of paragraph (b), paragraphs (b)(1), (b)(4), and (b)(7), the introductory text of paragraph (b)(8), and paragraphs (d), and (j), and adding paragraphs (b)(10), (b)(11), (e)(5), (e)(6), (k) and (l) to read as follows:

§ 240.17a–4 Records to be preserved by certain exchange members, brokers and dealers.

(a) Every member, broker and dealer subject to § 240.17a–3 shall preserve for a period of not less than six years (the first two years in an easily accessible place, subject to the provisions set forth in paragraph (k) of this section) all records required to be made pursuant to § 240.17a–3(a) (1), (2), (3), (5), (16), (17), (21), (22) and (23).

(b) Every member, broker and dealer subject to § 240.17a–3 shall preserve for a period of not less than three years (the first two years in an easily accessible place, subject to the provisions set forth in paragraph (k) of this section):

(1) All records required to be made pursuant to § 240.17a–3(a) (4), (6), (7), (8), (9), (10), (18), (19) and (20).

* * * * *

(4) Originals of all communications received and copies of all communications sent by the member, broker or dealer (including inter-office memoranda and communications) relating to its business as such. The member, broker or dealer shall also retain any written approvals of communications sent and any written procedures it uses for reviewing the communications received or sent by the member, broker or dealer (including inter-office memoranda and communications) relating to its business as such.

* * * * *

(7) All written agreements (or copies thereof) entered into by the member, broker or dealer relating to its business as such, including agreements with respect to any account.

(8) Records which contain the following information in support of amounts included in the report prepared as of the audit date on Form X–17A–5 (§ 249.617 of this chapter) Part II or Part IIA and in annual audited financial statements required by § 240.17a–5(d):

* * * * *

(10) All materials used by the member, broker or dealer or any associated person, to offer or sell any security, even if intended only for internal use. These materials include advertisements, marketing materials, sales scripts, and other paper or electronic materials, such as audio and video recordings. The member, broker or dealer shall also retain any written procedures for reviewing these materials.

(11) Copies of reports produced to review unusual activity in customer accounts. These reports include, but are not limited to, reports that identify exceptional numerical occurrences, such as frequent trading in customer accounts, unusually high commissions, or an unusually high number of trade corrections or cancelled transactions. In lieu of retaining copies of the reports, a member, broker or dealer may maintain, by electronic means, the data necessary to promptly create the reports upon request.

* * * * *

(d) Every member, broker and dealer subject to § 240.17a–3 shall preserve during the life of the enterprise and of any successor enterprise all Forms BD (§ 249.501 of this chapter), all Forms BDW (§ 249.501a of this chapter), all amendments to the Forms, all licenses or other documentation showing the member's, broker's or dealer's registration with state securities jurisdictions and self-regulatory organizations, and all partnership articles or, in the case of a corporation, all articles of incorporation or charter, minute books and stock certificate books.

(e) * * *

(5) All reports requested or required by a securities regulatory authority and any securities regulatory examination reports until at least three years after the date of the report.

(6) All compliance, supervisory, and procedures manuals describing the policies and practices of the member, broker or dealer with respect to operations, compliance with all

applicable securities laws and regulations, and supervision of the activities of each natural person associated with the member, broker or dealer until at least three years after the termination of the use of each manual.

* * * * *

(j) Every member, broker or dealer subject to this section shall furnish promptly to a representative of the Commission legible, true, and complete copies of those records of the member, broker or dealer, that are required to be preserved under this section, or any other records of the member, broker or dealer subject to examination under Section 17(b) of the Act (15 U.S.C. 78q(b)) that are requested by the representative of the Commission.

(k) Records required to be preserved by the provisions of this section must be maintained at the headquarters office or other centralized location of a member, broker or dealer. In addition, records required to be maintained by § 240.17a–3(a)(1), (a)(6), (a)(7), (a)(12), (a)(16), (a)(17), (a)(18), (a)(19), (a)(20), (a)(21), and (a)(22) and paragraphs (b)(4) and (e)(6) of this section which:

(1) Relate to a local office shall also be maintained at the local office as follows:

(i) The most recent one year period of the records pertaining to a local office shall be maintained at the local office of a member, broker or dealer; or

(ii) In lieu of maintaining records at the local office, a member, broker or dealer may comply with the local office record maintenance requirements of this section by having the capability of producing printed copies of the records at the local office during the same business day as the request for the records is made or, if unusual circumstances prevent the production of printed copies of the records within the same business day, with the permission of the securities regulator making the request, the records shall be made available within a reasonable time. This capability shall not be deemed to supersede paragraph (f) of this section.

(2) Relate to an office of a member, broker or dealer that does not meet the definition of local office under § 240.17a–3(g)(1), or relate to an associated person who works out of multiple offices of a member, broker or dealer, must be either maintained at the office, or aggregated with the records of one or more other such offices or associated persons at a state record depository designated by the member, broker or dealer if the following requirements are met:

(i) The state record depository, which may be another office of the member, broker or dealer, is located within the same state as the office that does not meet the definition of local office, and with respect to maintaining records for an associated person who works out of multiple offices, the state record depository is located in each state in which the associated person conducts its business; and

(ii) The records stored in the state record depository can be easily identified and accessed for each office that does not meet the definition of local office or for each associated person to the same extent as if each such office or associated person kept separate records in compliance with the local office recordkeeping requirements of this section.

(l) When used in this section:

(1) The term *local office* shall have the meaning set forth in § 240.17a–3(g)(1).

(2) The term *principal* shall have the meaning set forth in § 240.17a–3(g)(2).

(3) The term *securities regulatory authority* shall have the meaning set forth in § 240.17a–3(g)(3).

§ 240.17a–4 [Amended]

4. In § 240.17a–4, paragraph (f)(3)(ii) is amended by removing the phrase "the Commission or its representatives" and in its place adding "the staffs of the Commission, any self-regulatory organization of which it is a member, or any state securities regulator having jurisdiction over the member, broker or dealer".

5. In § 240.17a–4, paragraph (f)(3)(vii) is amended by:

a. Removing the phrase "the U.S. Securities and Exchange Commission ("Commission"), its designees or representatives," and in its place adding "the U.S. Securities and Exchange Commission ("Commission"), its designees or representatives, any self-regulatory organization of which it is a member, or any state securities regulator having jurisdiction over the member, broker or dealer,";

b. Removing the phrase "the Commission's or designee's staff" and in its place adding "the staffs of the Commission, any self–regulatory organization of which it is a member, or any state securities regulator having jurisdiction over the member, broker or dealer";

c. Removing each place it appears the phrase "the Commission's staff or its designee" and in its place adding "the staffs of the Commission, any self–regulatory organization of which it is a member, or any state securities regulator having jurisdiction over the member, broker or dealer".

Dated: October 2, 1998.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27120 Filed 10–8–98; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AD91

Federal Old-Age, Survivors and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Medical and Other Evidence of Your Impairment(s) and Definition of Medical Consultant

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to revise the Social Security and supplemental security income (SSI) disability regulations regarding sources of evidence for establishing the existence of a medically determinable impairment under title II and title XVI of the Social Security Act (the Act). We are doing this to clarify and expand the list of acceptable medical sources and to revise the definition of the term "medical consultant" to include additional acceptable medical sources.

DATES: To be sure that your comments are considered, we must receive them no later than December 8, 1998.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P. O. Box 1585, Baltimore, MD 21235, sent by telefax to (410) 966–2830, sent by E-Mail to "regulations@ssa.gov," or delivered to the Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Robert J. Augustine, Legal Assistant, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 966–5121. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: The Act provides, in title II, for the payment of disability benefits to persons insured under the Act. Title II also provides,

under certain circumstances, for the payment of child's insurance benefits based on disability and widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured persons. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources.

For adults under both the title II and title XVI programs (including persons claiming child's insurance benefits based on disability under title II), "disability" means the inability to engage in any substantial gainful activity. For an individual under age 18 claiming SSI benefits based on disability, "disability" means that an impairment(s) causes "marked and severe functional limitations." Under both title II and title XVI, disability must be the result of a medically determinable physical or mental impairment or combination of impairments that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months.

The Act also provides that an individual shall not be considered to be under a disability unless he or she furnishes such medical and other evidence of the existence of such impairment(s) as the Commissioner may require.

Explanation of Proposed Revisions

Sections 404.1513 and 416.913 state that we need reports about the individual's impairments from acceptable medical sources; they also provide a list of acceptable medical sources. Acceptable medical sources have the training and expertise to provide us with the signs and laboratory findings based on medically acceptable clinical and laboratory diagnostic techniques that establish the existence of a medically determinable physical or mental impairment.

We propose to amend §§ 404.1513 and 416.913 by revising the list of acceptable medical sources and making other changes to these sections, as follows.

Sections 404.1513 and 416.913 Medical Evidence of your Impairment.

We propose to revise the heading to "Medical and other evidence of your impairment(s)" to more accurately identify the subject of these sections, which describe how we use evidence from acceptable medical sources and other sources, such as nurse-practitioners, chiropractors, school teachers, and social workers. Sections 223(d)(3) and 1614(a)(3)(D) of the Act require that an individual have a medically determinable physical or mental impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques. To establish the existence of a medically determinable impairment, we require evidence from acceptable medical sources. As indicated in current paragraph (e), we use evidence from other sources to help us understand how an adult's impairment(s) affects the ability to work and how a child's impairment(s) affects the ability to function.

We propose to revise the heading of, and language in, paragraph (a) of these sections to make it clear that we need evidence from acceptable medical sources to establish the existence of a medically determinable impairment, and that those sources identified in proposed paragraphs (a)(1) through (a)(5) are the sources who can provide us with this evidence. We propose to add a cross-reference to § 404.1508 in § 404.1513(a) and a cross-reference to § 416.908 in § 416.913(a) because §§ 404.1508 and 416.908 describe the type of medical evidence required to establish the existence of a medically determinable impairment.

We propose to revise paragraph (a)(1) by combining it with current paragraph (a)(2) because osteopaths are physicians, and their degree may be either Doctor of Medicine or Doctor of Osteopathy, depending on the school that conferred the degree. Thus, a licensed physician may be either a medical or an osteopathic doctor.

We propose to renumber current paragraphs (a)(3) and (a)(4) as new paragraphs (a)(2) and (a)(3).

We propose to revise new paragraph (a)(2) by adding language to our rules to reflect our current operating instructions which state that licensed or certified school psychologists (or licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting) are acceptable medical sources for purposes of establishing the existence of mental retardation and learning disabilities. Prior to adding school psychologists to the list of acceptable medical sources in our operating instructions for purposes of establishing the existence of mental retardation and learning disabilities, we conducted a State-by-State analysis of the educational qualifications and other requirements for their licensure or certification, and we had discussions with representatives of the National Association of School Psychologists on the issue of what school psychologists are uniformly qualified to do nationwide. Although the term "licensed or certified psychologists" encompasses school psychologists, we found that there is a lack of national uniformity among the States as to what school psychologists are allowed to do beyond the areas of mental retardation and learning disabilities. We determined, however, that licensed or certified school psychologists (or licensed or certified individuals with other titles who perform the same functions as a school psychologist in a school setting) are able to provide us with a complete medical report of manifestations related to mental retardation or learning disabilities. Therefore, we concluded that all individuals who are licensed or certified by their States (or approved in Michigan, which is equivalent to licensure or certification in other States) as school psychologists are medical sources who can establish the existence of mental retardation and learning disabilities.

We propose to create a new paragraph (a)(4), which would include as acceptable medical sources licensed podiatrists for impairments of the foot, or foot and ankle (depending on the delineation in the State licensure). These sources are currently included in our operating instructions as acceptable medical sources for purposes of establishing the existence of a medically determinable impairment of the foot, or foot and ankle, because they are licensed to practice medicine and perform surgery on a specific part of the body. They can do everything that a physician is licensed to do with respect to the foot, or foot and ankle, and have equal standing to physicians in this respect; therefore, we are adding them to the list of acceptable medical sources in our regulations as sources who can establish the existence of a medically determinable impairment of the foot, or foot and ankle. New paragraph (a)(4) would provide that whether evidence from a podiatrist can be used to establish the existence of a medically determinable impairment of the foot only, or the foot and ankle, depends on the scope of practice of podiatry in a State; i.e., whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or on the foot and ankle. Medical reports from podiatrists can provide us with all the evidence we require to establish the existence of a medically determinable impairment of the foot, or foot and ankle.

We propose to delete current paragraph (a)(5) because, regardless of

who is authorized to send us a medical report, the evidence itself must be provided by an acceptable medical source identified in proposed paragraphs (a)(1) through (a)(5). Similarly, we propose to delete current paragraph (a)(6) (which appears only in § 416.913) because it does not matter whether the evaluation by an acceptable medical source identified in proposed paragraphs (a)(1) through (a)(5) is included in an interdisciplinary team report or is contained in a separate report.

We propose to add a new paragraph (a)(5) to include qualified speech-language pathologists as acceptable medical sources who can establish the existence of a speech or language impairment. These sources are currently included in our operating instructions as medical sources who can establish the existence of a medically determinable speech or language impairment in title XVI childhood disability cases in which the individual is found to be disabled. Prior to adding qualified speech-language pathologists to the list of acceptable medical sources in our operating instructions, we conducted a State-by-State analysis of the educational qualifications and other requirements for licensure or certification of speech-language pathologists, and we had discussions with representatives of the American Speech-Language-Hearing Association on the issue of what nationwide qualification requirements there are for speech-language pathologists. We determined that the evaluation report of a qualified speech-language pathologist can provide us with the detailed evidence we require about a person's communicative ability that enables us to determine the existence of a medically determinable speech or language impairment. Under proposed paragraph (a)(5), "qualified speech-language pathologists" must be fully certified by their State's education agency, or licensed by their State's professional licensing board, or hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association.

We propose to switch the text of current paragraph (d) with the text of current paragraph (e). We believe that the transposition makes it clearer that, when we decide whether the evidence is complete enough for a determination, we look at the completeness of the medical evidence from acceptable medical sources identified in paragraph (a) and at any evidence that may have been provided by other sources, such as those identified in new paragraph (d). Thus, the proposal would make it clearer that we consider all of the relevant evidence we receive from acceptable medical sources and other sources when we make a determination about whether the individual is disabled or blind.

We propose to revise the language in new paragraph (d) (current paragraph (e)) by making technical changes for clarity and consistency. We also propose to reorganize and renumber the subparagraphs in new paragraph (d). We propose to delete the words "Information from" in the heading of new paragraph (d). We propose to change the first sentence of § 404.1513(d) to read: "In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work." We propose to change the first sentence of § 416.913(d) to read: "In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work or, if you are a child, your functioning." We propose to add a reference to the severity of the individual's impairment(s) because we may use evidence from other sources to show impairment severity, as well as how it affects the ability to work or, in § 416.913(d), a child's functioning. We propose to clarify new paragraph (d)(1) by adding "Medical sources not listed in paragraph (a) of this section." We propose to add the word "personnel" in new paragraph (d)(3) because when we refer to "sources" we mean people, not entities. We propose to begin new paragraph (d)(4) with "Other non-medical sources," instead of "Observations by," to make the construction of new paragraph (d)(4) parallel to that of new paragraphs (d)(1) through (d)(3).

We have added the phrase "but are not limited to" in the second sentence of new paragraph (d) of § 404.1513 to clarify that the list of other sources is not an exclusive list and to make it consistent with the language in current paragraph (e) of § 416.913. We have included in paragraph (d)(1) some of the examples of other medical sources contained in current paragraphs (e)(3) and (4) of § 416.913. We propose to add new paragraph (d)(2) to reflect the provisions of current paragraph (e)(5) of § 416.913. We also propose to add the language "(for example, spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, and clergy)" to new paragraph (d)(4) to make it consistent with the language in current paragraph (e)(2) of § 416.913.

In new paragraph (d) of § 416.913, we would change the language "or, if you are a child, your ability to function independently, appropriately, and effectively in an age-appropriate manner" to "or, if you are a child, your functioning" because section 1614(a)(3) of the Act was amended by Public Law 104–193 on August 22, 1996, which added a new paragraph (C) that changed the definition of disability for individuals under age 18 claiming SSI benefits. We propose to delete the words "may" and "and" in the second sentence of new paragraph (d), and insert the word "but" after the phrase "Other sources include" to make it clear that this list is not exclusive. We propose to add "audiologists" to new paragraph (d)(1) to make it consistent with current paragraph (e)(3) and new paragraph (d)(1) of § 404.1513. We would shorten paragraph (d) by consolidating current paragraphs (e)(3) and (4) in new paragraph (d)(1) and limiting the example of therapists to physical therapists. We propose to delete "speech and language therapists" from the examples in new paragraph (d)(1) because we are proposing to include speech-language pathologists, which is a more accurate title for these health care professionals, in new paragraph (a)(5).

We propose to delete the word "medical" and the phrase "including the clinical and laboratory findings" and add the phrase "in your case record" after the word "evidence" in the first sentence of new paragraph (e) (current paragraph (d)) of §§ 404.1513 and 416.913. We want to make it clear that we do not look only at medical evidence from the acceptable medical sources identified in paragraph (a), but also at any evidence that might have been provided by other sources, as described in new paragraph (d), when we make a determination about whether the individual is disabled or blind. Also, it is the evidence in the case record, not necessarily each piece of evidence, that must be complete and detailed enough to allow us to make a determination about whether the individual is disabled or blind. We propose to revise new paragraph (e)(1) by deleting the term "limiting effects" and substituting in its place the word "severity," which more accurately conveys the statutory requirement that an individual must have a severe impairment to be found disabled. We propose to revise the language in new paragraph (e)(2) to more accurately refer to whether the duration requirement is met, because the issue of duration of the individual's

impairment(s) may pertain to a period in the past, rather than to a period in the future. We propose to revise new paragraph (e)(3) by qualifying the language about residual functional capacity because the combined evidence must be complete and detailed enough to allow us to determine the individual's residual functional capacity only when the evaluation steps described in §§ 404.1520(e) or (f)(1) and 416.920(e) or (f)(1) apply. We also propose to add the phrase "or, if you are a child, your functioning" to § 416.913(e)(3) because ability to function is the relevant issue that we must determine for a child, not residual functional capacity.

Other Changes

Sections 404.1503 and 416.903 Who Makes Disability and Blindness Determinations

We propose to remove the last sentence in paragraph (e) because, presently, in cases involving a combination of mental and nonmental impairments, the appropriate consultant determines impairment severity in his or her area of expertise, and this is reflected in determining the overall impact of the combination of impairments on the individual's ability to work.

Sections 404.1512 and 416.912 Evidence of Your Impairment

We propose to change the cross-reference in paragraph (b)(4) from paragraph (e) to paragraph (d) because current paragraph (e) would be new paragraph (d).

Section 404.1526 Medical Equivalence; Section 416.926 Medical Equivalence for Adults and Children; Sections 404.1616 and 416.1016 Medical or Psychological Consultant

We propose to revise the second sentence in paragraph (c) of §§ 404.1526 and 416.926 and the first sentence in §§ 404.1616 and 416.1016 to indicate that a medical consultant must be an acceptable medical source identified in §§ 404.1513(a)(1) or (a)(3) through (a)(5) and 416.913(a)(1) or (a)(3) through (a)(5). We believe the acceptable medical sources identified in these sections, in addition to physicians, are fully qualified to serve as medical consultants within their areas of expertise.

Electronic Versions

The electronic file of this document is available on the Federal Bulletin Board (FBB) at 9:00 a.m. on the date of publication in the **Federal Register**. To download the file, modem dial (202) 512–1387. The FBB instructions will explain how to download the file and the fee. This file is in WordPerfect and will remain on the FBB during the comment period.

Regulatory Procedures

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Therefore, they are not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These proposed regulations impose no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors, and Disability insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: September 29, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subparts P and Q of part 404 and subparts I and J of part 416 of 20 CFR chapter III as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart P—[Amended]

1. The authority citation for subpart P of part 404 continues to read as follows:

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

§ 404.1503 [Amended]

2. Section 404.1503 is amended by removing the last sentence of paragraph (e).

3. Section 404.1512 is amended by revising paragraph (b)(4) to read as follows:

§ 404.1512 Evidence of your impairment.

* * * * *

(b) * * *

(4) Information from other sources, as described in § 404.1513(d);

* * * * *

4. Section 404.1513 is amended by revising the heading and paragraphs (a), (d), and (e) to read as follows:

§ 404.1513 Medical and other evidence of your impairment(s).

(a) *Sources who can provide evidence to establish an impairment.* We need evidence from acceptable medical sources to establish whether you have a medically determinable impairment(s). See § 404.1508. Acceptable medical sources are—

(1) Licensed physicians (medical or osteopathic doctors);

(2) Licensed or certified psychologists (including school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing mental retardation and learning disabilities only);

(3) Licensed optometrists, for the measurement of visual acuity and visual fields (we may need a report from a physician to determine other aspects of eye diseases);

(4) Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle only, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle only; and

(5) Qualified speech-language pathologists, for purposes of establishing speech or language impairments only. For this source, "qualified" means that the pathologist must be fully certified by the State

education agency in the State in which he or she practices, or be licensed by the State professional licensing board, or hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association.

* * * * *

(d) *Other sources.* In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work. Other sources include, but are not limited to—

(1) Medical sources not listed in paragraph (a) of this section (for example, nurse-practitioners, physicians' assistants, naturopaths, chiropractors, audiologists, and physical therapists);

(2) Educational personnel (for example, school teachers, counselors, early intervention team members, developmental center workers, and daycare center workers);

(3) Public and private social welfare agency personnel; and (4) Other non-medical sources (for example, spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, and clergy).

(e) *Completeness.* The evidence in your case record must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. It must allow us to determine—

(1) The nature and severity of your impairment(s) for any period in question;

(2) Whether the duration requirement, as described in § 404.1509, is met; and

(3) Your residual functional capacity to do work-related physical and mental activities, when the evaluation steps described in § 404.1520(e) or (f)(1) apply.

5. Section 404.1526 is amended by revising the second sentence of paragraph (c) to read as follows:

§ 404.1526 Medical equivalence.

* * * * *

(c) *Who is a designated medical or psychological consultant.* * * * A medical consultant must be an acceptable medical source identified in § 404.1513(a)(1) or (a)(3) through (a)(5). * * *

Subpart Q—[Amended]

6. The authority citation for subpart Q of part 404 continues to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

7. Section 404.1616 is amended by revising the first sentence of the introductory paragraph to read as follows:

§ 404.1616 Medical or psychological consultant.

A medical consultant must be an acceptable medical source identified in § 404.1513(a)(1) or (a)(3) through (a)(5). * * *

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—[Amended]

8. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)-(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

§ 416.903 [Amended]

9. Section 416.903 is amended by removing the last sentence of paragraph (e).

10. Section 416.912 is amended by revising paragraph (b)(4) to read as follows:

§ 416.912 Evidence of your impairment.

* * * * *

(b) * * *

(4) Information from other sources, as described in § 416.913(d);

* * * * *

11. Section 416.913 is amended by revising the heading and paragraphs (a), (d), and (e) to read as follows:

§ 416.913 Medical and other evidence of your impairment(s).

(a) *Sources who can provide evidence to establish an impairment.* We need evidence from acceptable medical sources to establish whether you have a medically determinable impairment(s). See § 416.908. Acceptable medical sources are—

(1) Licensed physicians (medical or osteopathic doctors);

(2) Licensed or certified psychologists (including school psychologists, or other licensed or certified individuals with other titles who perform the same function as a school psychologist in a school setting, for purposes of establishing mental retardation and learning disabilities only);

(3) Licensed optometrists, for the measurement of visual acuity and visual fields (see paragraph (f) of this section for the evidence needed for statutory blindness);

(4) Licensed podiatrists, for purposes of establishing impairments of the foot, or foot and ankle only, depending on whether the State in which the podiatrist practices permits the practice of podiatry on the foot only, or the foot and ankle; and

(5) Qualified speech-language pathologists, for purposes of establishing speech or language impairments only. For this source, "qualified" means that the pathologist must be fully certified by the State education agency in the State in which he or she practices, or be licensed by the State professional licensing board, or hold a Certificate of Clinical Competence from the American Speech-Language-Hearing Association.

* * * * *

(d) *Other sources.* In addition to evidence from the acceptable medical sources listed in paragraph (a) of this section, we may also use evidence from other sources to show the severity of your impairment(s) and how it affects your ability to work or, if you are a child, your functioning. Other sources include, but are not limited to—

(1) Medical sources not listed in paragraph (a) of this section (for example, nurse-practitioners, physicians' assistants, naturopaths, chiropractors, audiologists, and physical therapists);

(2) Educational personnel (for example, school teachers, counselors, early intervention team members, developmental center workers, and daycare center workers);

(3) Public and private social welfare agency personnel; and

(4) Other non-medical sources (for example, spouses, parents and other caregivers, siblings, other relatives, friends, neighbors, and clergy).

(e) *Completeness.* The evidence in your case record must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. It must allow us to determine—

(1) The nature and severity of your impairment(s) for any period in question;

(2) Whether the duration requirement, as described in § 416.909, is met; and

(3) Your residual functional capacity to do work-related physical and mental activities, when the evaluation steps described in § 416.920(e) or (f)(1) apply, or, if you are a child, your functioning.

* * * * *

12. Section 416.926 is amended by revising the second sentence of paragraph (c) to read as follows:

§ 416.926 Medical equivalence for adults and children.

* * * * *

(c) *Who is a designated medical or psychological consultant.* * * * A medical consultant must be an acceptable medical source identified in § 416.913(a)(1) or (a)(3) through (a)(5). * * *

* * * * *

Subpart J—[Amended]

13. The authority citation for subpart J of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

14. Section 416.1016 is amended by revising the first sentence of the introductory paragraph to read as follows:

§ 416.1016 Medical or psychological consultant.

A medical consultant must be an acceptable medical source identified in § 416.913(a)(1) or (a)(3) through (a)(5). * * *

* * * * *

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 35, 36, and 37

[Docket No. FR–3482–N–05]

RIN 2501–AB57

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Notice of Additional Information and Analysis on Determination of No Significant Economic Impact on Substantial Number of Small Entities

AGENCY: Office of the Secretary—Office of Lead Hazard Control, HUD.

ACTION: Notice of additional information and analysis on determination of no significant economic impact on substantial number of small entities.

SUMMARY: This notice pertains to a proposed rule published by HUD in the **Federal Register** on June 7, 1996 that would implement sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The June 7, 1996 rule advised that HUD had determined that the proposed regulatory requirements would not have a significant economic impact on a substantial number of small entities. HUD continues to believe that this determination was correct. The Department is publishing this notice to provide the public with additional details regarding the reasons for this determination. HUD requests written public comment on this analysis of the impact of the rule on small entities, in accordance with the Regulatory Flexibility Act.

DATES: Comment due date. Comments on this notice must be received on or before November 9, 1998.

ADDRESSES: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410–0500. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address. Facsimile (FAX) comments are *not* acceptable.

FOR FURTHER INFORMATION CONTACT: Steve Weitz, Office of Lead Hazard Control, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410–0500. Telephone: (202) 755–1785, ext. 106 (this is not a toll-free number). E-Mail: Stevenson__P.__Weitz@hud.gov. Hearing or speech-impaired persons may access the above telephone number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Need for and Objectives of the June 7, 1996 Proposed Rule

The Lead-Based Paint Poisoning Prevention Act of 1971, as amended, directs the U.S. Department of Housing and Urban Development (HUD) to establish procedures to eliminate to the extent practicable lead-based paint hazards in federally associated housing. HUD issued implementing regulations in 1976 and made department-wide revisions in 1986, 1987, and 1988. In 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act, which was Title X of the Housing and Community Development Act of 1992 (Title X). Sections 1012 and 1013 of Title X amend the Lead-Based Paint Poisoning Prevention Act to require specific new procedures for lead-based paint notification, evaluation, and hazard reduction activities in housing receiving Federal assistance (section 1012) and federally owned housing at the time of sale (section 1013).

In enacting Title X, the Congress found that low-level lead poisoning is widespread among American children, with minority and low-income communities disproportionately affected; that, at low levels, lead poisoning in children causes IQ deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems; and that the health and development of children living in as many as 3.8 million homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes.

Among the stated purposes of Title X are to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock; to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments; and to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government.

On June 7, 1996 (61 FR 29170), HUD published a proposed rule that would implement the requirements of Title X. The proposed rule set forth new requirements for lead-based paint hazard notification, evaluation, and reduction for federally owned residential property and housing receiving Federal assistance.

The proposed rule took into consideration the substantial advancement of lead-based paint remediation technologies and the improved understanding of the causes of childhood lead poisoning by scientific and medical communities. Perhaps the most important results of research on this subject during the last 10–12 years have been (1) the finding that lead in house dust is the most common pathway of childhood lead exposure and (2) the measurement of the statistical relationship between levels of lead in house dust and lead in the blood of young children. The June 7, 1996 rule proposed to update the existing HUD regulations to reflect this knowledge, giving importance to procedures that identify and remove dust-lead hazards as well as chipping, peeling or flaking lead-based paint.

The June 7, 1996 rule also proposed also to offer a consolidated, uniform approach to addressing lead-based paint hazards. Currently, each individual HUD program has a separate set of lead-based paint requirements incorporated into its program regulations. The

proposed regulation would consolidate the HUD lead-based paint regulations and would group requirements by type of housing assistance, rather than by individual program. For example, the rule contains sections that address single family mortgage insurance, multifamily mortgage insurance, project-based assistance, rehabilitation assistance, public housing, and tenant-based assistance.

Moreover, the June 7, 1996 rule proposed to use a clear and consistent set of terms to specify notification, evaluation, and hazard reduction requirements. Organizing the requirements by the type of housing assistance and using new terminology will avoid subjecting properties receiving assistance from more than one program to inconsistent or redundant HUD lead-based paint requirements. These changes will also ease the burden on HUD clients in locating and understanding the applicable requirements and help ensure that lead hazards are identified and safely reduced.

II. Public Involvement in Rulemaking

Because of the magnitude of the changes required in HUD's lead-based paint regulations and the potential impact of these changes, public involvement was important to the proposed rulemaking process (and remains important in the final rule stages). The three main avenues for public involvement in the development of the proposed rule were the development of the 1995 HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (HUD Guidelines), the recommendations from the Task Force on Lead-Based Paint Hazard Reduction and Financing (Task Force), and three meetings with HUD clients to seek comment on the implementation of Title X. In addition to these three methods of public involvement, there was, of course, the opportunity for public comment on the proposed rule itself.

The HUD Guidelines were mandated by section 1017 of Title X and are intended to help property owners, government agencies and private contractors sharply reduce children's exposure to lead-based paint hazards, without adding unnecessarily to the cost of housing. They were developed by housing, public health and environmental professionals with broad experience in lead-based paint hazard identification and control. Over 50 individuals from outside the Government have participated in the writing and review of the Guidelines, which form the basis for many of the lead-based paint hazard evaluation and reduction methods described in the rule.

The Task Force on Lead-Based Paint Hazard Reduction and Financing (Task Force) was mandated by section 1015 of Title X to address sensitive issues related to lead-based paint hazards in private housing, including standards of hazard evaluation and control, financing, and liability and insurance for rental property owners and hazard control contractors. The Task Force submitted its recommendations, *Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing*, to then-HUD Secretary Henry Cisneros and Environmental Protection Agency (EPA) Administrator Carol Browner in July 1995. Many if not most of the Task Force members represented small entities. Members of the Task Force included representatives from Federal agencies, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the building and construction industry, landlords, tenants, primary lending institutions, private mortgage insurers, single family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, lead-poisoning prevention advocates and community-based organizations serving communities at high-risk for childhood lead poisoning. The Task Force report was an important contribution to the development of the proposed rule.

Prior to the development of the proposed rule, the Department held three meetings with HUD clients on the potential implications of Title X on HUD programs. The meetings involved HUD constituents, grantees, and field staff of the Offices of Public and Indian Housing (PIH), Community Planning and Development (CPD), and Housing, as well as advocacy and tenant representatives. Participants shared their thoughts on several Title X issues including: Risk assessment and interim controls, hazard reduction activities during the course of rehabilitation, occupant notice of hazard evaluation and reduction activities, and responding to children with elevated blood-lead levels. Additional written comments were accepted from participants after the meetings.

Under the authority of Title X, HUD published the June 7, 1996 proposed rule in the **Federal Register**, requesting comments on or before September 5, 1996. Of the 93 comments, more than a third came from agencies of State or local government: community development agencies, public housing authorities, planners, mayors, health departments and other organizations directly or indirectly involved with federally assisted programs involving housing. Comments were also received from groups representing the housing and community development industry, hospitals, physicians or health agencies, lead poisoning prevention advocacy groups, broadly based environmental groups, and law firms or legal aid organizations. Housing developers, consultants or experts on some aspect of the rule, standards-setting entities, and a bank, a secondary mortgage market organization, a coalition of tenant action groups, a child welfare group, and an advocacy group representing industries that manufacture or use lead also submitted comments. Few commenters spoke explicitly to the concerns of small entities.

III. Proposed Rule Requirements

The June 7, 1996 rule proposed to establish the following types of lead-based paint requirements: (1) Distribution of a lead hazard information pamphlet, (2) notice to occupants of evaluation and hazard reduction activities, (3) evaluation of lead-based paint hazards, (4) reduction of lead-based paint hazards, (5) ongoing monitoring and reevaluation, and (6) response to a child with an elevated blood lead level.

Lead hazard information pamphlet. The June 7, 1996 rule proposed to require the distribution of the EPA brochure entitled, "Protect Your Family From Lead in Your Home" to all existing tenants or owner-occupants who have not already received it in compliance with the lead-based paint disclosure rule (24 CFR part 35, subpart H). Since the disclosure rule was effective in the fall of 1996, HUD expects that most tenants will have already received the pamphlet when the final rule is issued and becomes effective late in 1999 (see discussion of effective date below).

Resident Notice. The June 7, 1996 rule, in accordance with Title X, proposed to require that occupants of rental housing receiving Federal assistance be provided written notice of risk assessments, paint inspections, or hazard reduction activities required by this regulation and undertaken at the property. This was proposed as a new requirement in HUD regulations. The required notice following risk assessment or inspection provides information to occupants about the nature, scope, and results of the evaluation and a name and phone number to contact for more information or for access to the actual evaluation

reports. Notices to tenants regarding hazard reduction activities must contain information about the treatments performed and the location of any remaining lead-based paint. HUD anticipates that owners and others affected by the new lead-based paint hazard control regulations may require guidance on how to prepare a summary of hazard evaluation and reduction activities. For this reason, HUD is considering providing a "model summary" in the final rule that will describe the information that should be made available to tenants when lead-based paint activities are conducted.

Evaluation. The June 7, 1996 rule, in accordance with Title X, proposed to establish two main types of evaluation procedures: A lead-based paint inspection, which is a surface-by-surface investigation to determine the presence of lead-based paint on painted surfaces of a dwelling, typically through the use of a portable X-ray fluorescence (XRF) analyzer; and a risk assessment, which is an on-site investigation to determine and report the existence, nature, severity, and location of lead-based paint hazards, which, in accordance with Title X, include dust-lead and soil-lead hazards as well as deteriorated lead-based paint, as well as lead-based paint on friction, impact and chewable surfaces. A risk assessment includes limited dust wipe sampling or other environmental sampling techniques, identification of hazard reduction options, and a report explaining the results of the investigation. In some housing programs, the proposed rule calls for a visual assessment instead of a lead-based paint inspection or risk assessment. A visual assessment does not require environmental sampling but requires the visual examination of interior and exterior painted surfaces for signs of deterioration. The June 7, 1996 rule proposed to require different types of evaluation for different types of housing assistance programs and different ages of housing. The differences in the requirements largely reflect the extent of Federal involvement in the property or the availability of funding.

Existing HUD lead-based paint regulations require a visual inspection for defective paint surfaces and, in some cases, testing of and abatement of any lead-based paint on chewable paint surfaces. These methods are similar in kind to the visual assessment and paint testing requirements under the proposed rule.

In order to ensure that evaluation activities are properly conducted, the June 7, 1996 rule proposed to require risk assessors and paint inspectors to be trained and certified professionals in accordance with EPA requirements.

Hazard reduction activities. Three types of hazard reduction activities were discussed in the June 7, 1996 proposed rule: Abatement, which is a set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards through removal, permanent enclosure or encapsulation, replacement of components, or removal or covering of lead-contaminated soil; interim controls, which are designed to reduce temporarily human exposure to lead-based paint hazards through repairs, maintenance, painting, temporary containment, specialized cleaning, and ongoing monitoring; and paint repair, which is removal of deteriorated paint and repainting. Specialized cleanup is required after all these activities, and clearance dust testing is required after abatement and interim controls.

As with the requirements for evaluation, the June 7, 1996 rule proposed to require different types of hazard reduction activities for different types of housing assistance programs and different periods of construction. In the case of public housing, abatement of lead-based paint and lead-based paint hazards is required during the course of modernization under the current regulation. Under the June 7, 1996 proposed rule, the public housing requirements would remain essentially the same, with the additional requirement of interim controls to reduce identified lead-based hazards before scheduled abatement can occur.

Ongoing maintenance and reevaluation. If temporary hazard reduction measures are used and there is a continuing financial relationship between HUD and the residential property, the June 7, 1996 rule proposed generally to require that owners conduct an annual check to identify any new deteriorated paint and to ensure that prior hazard reduction treatments are still intact. If there is new deteriorated paint, it is to be repaired; if old treatments are failing, they are to be fixed. For some housing programs, the June 7, 1996 rule proposed to require that a certified risk assessor conduct a reevaluation of the property at specified intervals to identify any reaccumulation of lead-contaminated dust.

Response to a child with an elevated blood lead level. In some HUD programs, existing regulations use the presence of a child under age seven with an elevated blood lead level (EBL) as a trigger to initiate testing for and abatement of lead-based paint on chewable surfaces. The June 7, 1996 rule proposed to change the cutoff age from seven to six, to conform to guidance from the Centers for Disease Control and Prevention (CDC). The rule also proposed to change the response requirement to a risk assessment and interim controls of any identified lead-based paint hazards, and to change the definition of an elevated blood lead level for the purposes of this rule from equal to or exceeding 25 micrograms per deciliter (μg/dL) to 20 μg/dL for a single venous test or of 15–19 μg/dL in two consecutive venous tests taken 3 to 4 months apart. This definitional change was made in consultation with CDC.

IV. Impact on Small Entities

The entities that would be most affected by the requirements proposed in the June 7, 1996 rule are owners of housing and State and local housing and community development agencies and tribally designated housing entities that administer some HUD housing programs. Also affected would be the firms that perform the specialized lead-based paint activities called for by Title X, such as lead-based paint inspections, risk assessments, and abatement supervision. The analysis that follows focuses primarily on private owners, because they would be most directly affected by the cost of compliance and may not always be able to obtain adjustments of subsidy levels to amortize such costs. Contractors certified to perform lead-based paint activities would experience increased demand, especially for limited paint inspections, risk assessments, clearance examinations, and supervision of interim controls.

HUD estimates that approximately one million dwelling units owned by private entities or local, State or tribal housing agencies would be affected by the proposed rule during the first year after it is effective. During later years, additional units would be added to the coverage as phase-in provisions become effective and new properties are brought into the stock of HUD-associated housing. After four years, the number of affected units is expected to total approximately 1.7 million. This analysis does not include units owned by Federal agencies. Estimates are drawn from the Regulatory Impact Analysis of the proposed rule and are based on program data and the American Housing Survey.

The Department estimates that approximately three-fourths of the affected dwelling units would be owned by entities considered to be small, using the Small Business Administration definition of less than $5 million in total revenues per year. However, because

there is a very large number of affected entities owning only a small number of dwelling units, over 96 percent of the affected ownership entities would be considered small. HUD estimates that there would be approximately 120,000 ownership entities affected by the proposed rule four years after the effective date, of which about 116,000 would be considered small entities. Estimates of the average rental revenue per unit and per property are based on a study for HUD of HUD-insured multifamily rental housing by Abt Associates, Inc., program data, and the American Housing Survey.

HUD estimates that the average cost of complying with the proposed rule during the first year in which a dwelling unit becomes subject to the rule would vary from 1 to 6 percent of rental revenue, depending on the program, with an overall weighted average of about 5 percent. If one excludes public housing from this analysis, the overall average for private-sector owners is about 4.5 percent. Estimates of the average cost of compliance are drawn from the Regulatory Impact Analysis.

This estimated average cost as a percentage of rental revenue may be somewhat misleading, however, unless one takes into account several considerations. First, many affected entities would have dwelling units that would not be subject to the proposed rule. No units built after 1977 are subject to the rule. Units with zero bedrooms (e.g., efficiencies, studios, and single-room occupancy units) are exempt. Dwelling units are also exempt if they have already been inspected and found to have no lead paint, or if all lead-based paint has been removed; these conditions will pertain to many public housing developments. Second, in the case of units with tenant-based rental assistance, the rule applies only to units occupied by families with children of less than six years of age. Finally, it should be noted that if a unit has no deteriorated paint or no lead-based paint hazards (depending on the housing program), no hazard reduction is required. Owners can minimize the cost effect of the rule through good maintenance of paint surfaces and careful cleanup at turnover. For all of these reasons, the total annual rental revenue for affected small entities may substantially exceed the total annual rental revenue associated with just those units subject to the rule.

It is also important to note that average regulatory costs per unit include activities such as paint repair and, in some cases, window replacement, which may be substantially offset by associated market benefits (such as the increased value of the property). HUD estimates in the Regulatory Impact Analysis that subtracting these market benefits from regulatory costs would reduce the net cost by 20 percent.

The estimated compliance cost is a combination of a one-time, first-year cost plus much lower ongoing costs. After the initial effort to evaluate and control hazards, the owner need only engage in ongoing lead-based paint maintenance activities that merely require that paint surfaces be kept in an intact condition, using safe work practices to assure that repainting does not contaminate the unit or cause lead exposure to the occupants. The Regulatory Impact Analysis for the proposed rule estimated that health benefits associated with paint repair and dust hazard removal will endure for at least four years. More recent data from the HUD evaluation of the Lead-Based Paint Hazard Control Grant Program indicate that the duration of benefits may be at least five years. If the one-time regulatory costs of the HUD rule are closely associated with a maintenance cycle, then it may be appropriate to estimate costs as a percentage of revenue over five years. In this case, the annual percentage impact associated with the rule would be reduced by 80 percent, or to an overall average of less than one percent for affected units.

V. Description of Alternatives and Minimization of Economic Impact

The specificity of the statute left HUD with no alternative to issuing an implementing regulation. However, in developing the June 7, 1996 proposed rule, HUD considered several alternative policies related to minimizing the burden of the rule on grantees, property owners and other parties responsible for complying with its requirements. Other alternatives were suggested by commenters on the proposed rule. In many cases, the public comments on the proposed rule articulated the issues discussed within the Department and at meetings with interested parties.

Effective date. One consideration pertained to the effective date of the rule when issued as a final rule. On the one hand, an early effective date for the final rule (such as 30 or 60 days after publication) seemed appropriate because the health of young children was at stake and the rule was delayed relative to the statutory requirement. On the other hand, HUD was aware that property owners, State and local agencies and other responsible parties needed time to prepare for compliance. Therefore, HUD proposed that the final rule not be effective until one year after publication. Also, commenters on the June 7, 1996 proposed rule urged HUD to make it clear that projects for which financing had been committed prior to the effective date of the final rule should not have to be redesigned or refinanced in midstream. In addition to the phase-in period of one year, the June 7, 1996 rule, in accordance with the statute, proposed to provide a more extended phase-in period for housing receiving project-based assistance that was constructed after 1960. For some housing, this phase-in would last for 9 years after publication of the final rule.

Stringency of requirements in relation to amount of Federal assistance and nature of program. The Department recognized that the statute and the legislative history indicated a desire on the part of Congress to make the stringency of requirements reasonable in relation to the amount of Federal assistance, the type and size of property, and the nature of the program. In developing the June 7, 1996 proposed rule, HUD considered various ways to achieve this goal and concluded with three important policies: (1) Multifamily properties receiving no more than $5,000 per unit per year in project-based assistance and all single family properties receiving project-based assistance were to have less stringent requirements than multifamily properties receiving more than $5,000; (2) housing receiving no more than $5,000 per unit in Federal rehabilitation assistance were to have much less stringent requirements than those receiving more than $5,000; and (3) the requirements for housing occupied by families with tenant-based rental assistance would apply only to units occupied by families with children of less than 6 years of age. By proposing to apply the rule narrowly to tenant-based rental assistance programs, HUD has mitigated some of the cost and burden on small businesses, while still realizing significant benefits by targeting units that house families with young children.

De minimis area of deteriorated paint. In an attempt to make the requirements of the rule as cost-effective as possible, the Department proposed a certain area of deteriorated paint that had to be present before treatment was required under the rule. This "de minimis" was drawn from the HUD Guidelines, where it was established as a way to focus resources on the highest priority hazards while maintaining effectiveness in hazard reduction. The de minimis areas were as follows: More than 10 square feet on an exterior wall; more than two square feet on a component with a large surface area other than an

exterior wall (such as interior walls, ceilings, floors and doors); or more than 10 percent of the total surface area on an interior or exterior component with a small surface area including, but not limited to window sills, baseboards, and trim. Comments on this proposal were mixed. Some commenters found it difficult to understand and put in practice, indicating that people would spend too much time measuring the exact areas of deteriorated paint instead of focusing on making housing lead safe. Others welcomed the proposal as a reasonable way to target hazard reduction resources. Data on the frequency with which deteriorated paint occurs in housing at levels above the de minimis are limited, making it difficult to confidently estimate its cost effect.

Qualifications. Another subject of concern to HUD was the qualifications of individuals performing the hazard evaluation and reduction activities required by the rule. The proposed rule would require that lead-based paint inspections, risk assessments, clearances and abatements be performed by people certified in accordance with EPA regulations and that workers conducting interim controls be supervised by a certified abatement supervisor. Recognizing, however, that certified individuals may not be readily available in some parts of the country, HUD provided in the proposed rule that the Secretary could establish temporary qualifications requirements that would help to meet scarcities. Also, the proposed rule would allow dust and soil testing by persons employed by local housing agencies that are trained but not certified. Two commenters felt that it would be a mistake to allow uncertified individuals take dust and soil tests, indicating that this appeared to be an avoidance of the certification law established by EPA regulations. Some commenters felt that it was unnecessary to require that interim controls workers be supervised by a certified abatement supervisor, suggesting that such workers could simply be trained in safe work practices.

Prescriptiveness. Another important topic is the prescriptiveness of the methods and standards described in the June 7, 1996 proposed rule. Several commenters on the proposed rule were concerned that the proposed requirements were too detailed with regard to technical methods and standards and that there was the potential for rigidity in the rule that would inhibit adoption of technological improvements. Others urged greater deference to State, tribal or local regulations. There are several areas where HUD could reduce prescriptiveness, especially for lead-based paint inspections, risk assessments and reevaluations.

Options to provide greater flexibility. In a similar vein, several commenters urged that HUD allow greater flexibility in ways to meet the goals of the rule. In particular, it was suggested that options be provided, such as the standard treatments recommended by the Task Force on Lead-Based Hazard Reduction and Financing as an option to conducting a risk assessment and interim controls. Such options would allow owners to select the procedure that is most cost-effective for them to achieve the goal of lead-based paint hazard control.

Avoidance of duplication. The June 7, 1996 proposed rule was written with careful consideration of existing regulations developed by other Federal agencies, States, Indian tribes and localities. To minimize duplication and avoid confusion, HUD has explicitly stated that this rulemaking does not preclude States, Indian tribes or localities from conducting a more protective procedure than the minimum requirements set out in the proposed rule. Similarly, if more than one requirement covers a condition or activity, the most protective method shall apply. HUD has worked and continues to work closely with the EPA and CDC to ensure that regulations from two or more Federal agencies are consistent and not duplicative. Wherever possible, HUD has referenced relevant requirements established by EPA.

VI. Conclusion

For the reasons discussed above, HUD continues to believe that the proposed regulatory requirements described in the June 7, 1996 rule would not have a significant economic impact on a substantial number of small entities. HUD welcomes written comments on this analysis, especially comments addressing issues that may impact small entities and are not addressed in this notice. Comments must be identified as responses to this analysis and must be filed by the deadline for comments. The Director of HUD's Office of Small and Disadvantaged Business Utilization has sent a copy of this analysis to the Chief Counsel for Advocacy of the Small Business Administration.

Dated: October 4, 1998.

David E. Jacobs,

Director, Office of Lead Hazard Control.

[FR Doc. 98–27274 Filed 10–8–98; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 212

RIN 1510–AA61

Taxpayer Identifying Number Requirement

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The Debt Collection Improvement Act of 1996 (DCIA) requires executive agencies to include payee taxpayer identifying numbers (TINs) on certified payment vouchers which are submitted to disbursing officials. The Financial Management Service (FMS), the Department of the Treasury disbursing agency, and other executive branch disbursing agencies are responsible for examining certified payment vouchers to determine whether such vouchers are in proper form. To ensure that executive branch agencies submit payment certifying vouchers in a form which includes payee TINs, FMS issued a proposed rule on September 2, 1997. The rule, as proposed, would require disbursing officials to reject payment requests without TINs.

Upon review of the comments received in response to the proposed rule, FMS has determined that a better approach to ensure compliance with the DCIA TIN requirement, in lieu of issuing a final rule, is to require each executive agency to submit a TIN Implementation Report to FMS documenting how the agency is complying with this requirement. Accordingly, FMS is issuing this document withdrawing the September 2, 1997, notice of proposed rulemaking. The Policy Statement outlining TIN Implementation Report requirements is being published in the **Federal Register** concurrently with this document.

DATES: The notice of proposed rulemaking published at 62 FR 46428 is withdrawn on October 9, 1998.

FOR FURTHER INFORMATION CONTACT: Cindy Johnson (Director, Cash Management Policy and Planning Division) at 202–874–6657, Dean Balamaci (Director, Agency Liaison Division, Debt Management Services) at 202–874–6660, Sally Phillips (Policy Analyst) at 202–874–6749, or James Regan (Attorney-Advisor) at 202–874–6680. This document is available on the Financial Management Service's web site: http://www.fms.treas.gov.

SUPPLEMENTARY INFORMATION: On April 26, 1996, the Debt Collection

Improvement Act of 1996 (DCIA) was enacted as Chapter 10 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104–134, 110 Stat. 1321–358. A major purpose of the DCIA is to enhance the government-wide collection of delinquent debts owed to the Federal Government.

Section 31001(d)(2) of the DCIA, codified at 31 U.S.C. 3716(c), generally requires Federal disbursing officials to offset an eligible Federal payment to a payee to satisfy a delinquent non-tax debt owed by the payee to the United States. A Federal disbursing official will conduct such an offset when the name and Taxpayer Identifying Number (TIN) of the payee match the name and TIN of the delinquent debtor, provided all other requirements for offset have been met. This process, known as "centralized offset," also may be used to collect delinquent debts owed to States, including past-due child support. The Department of the Treasury, Financial Management Service (FMS) is responsible for implementing the DCIA, including the centralized offset authority.

Section 31001(y) of the DCIA, codified at 31 U.S.C. 3325(d), facilitates centralized offset by requiring the head of an executive agency or an agency certifying official to include the TINs of payees on certified payment vouchers which are submitted to Federal disbursing officials. FMS, as the Department of Treasury disbursing agency, disburses more than 850 million Federal payments annually. *See* 31 U.S.C. 3321. FMS and other executive branch disbursing agencies are responsible for examining certified payment vouchers to determine whether such vouchers are in the proper form. 31 U.S.C. 3325(a)(2)(A).

In an effort to ensure that executive branch agencies submit certified payment vouchers in a form which includes payee TINs, FMS issued a proposed rule on September 2, 1997 (62 FR 46428), 31 CFR Part 212, Taxpayer Identifying Number Requirement. The rule, as proposed, would require disbursing officials to reject payment requests without TINs, effective 6 months after publication of the final rule.

After careful review and consideration of the comments submitted by Federal agencies in response to the proposed rule, FMS has determined that a better approach to ensure compliance with the DCIA TIN requirement, in lieu of issuing a final rule, is to require each executive agency to submit an agency TIN Implementation Report to FMS. This approach will address more effectively the underlying barriers to collecting TINs, and therefore increase compliance with the DCIA. The rejection of payment requests lacking TINs, as contemplated in the notice of proposed rulemaking, may not resolve these underlying barriers, and would unduly interfere with the timely disbursement of Federal funds.

Some of the barriers to collecting and providing TINs as identified by agencies include systems reprogramming requirements, the need for agency finance and procurement offices to coordinate on TIN collection and data sharing requirements, the need to develop a reliable TIN validation process, as well as the resolution of TIN requirements involving payments to third parties or escrow agents. Many agencies also suggested that certain classes of payments should be exempt from the DCIA TIN requirement such as payments under the witness protection program and foreign payments to entities who do not have assigned TINs.

Agency TIN Implementation Reports will address the current status of agency compliance with the requirement to furnish TINs with each certified voucher, strategies for achieving compliance, agency specific barriers to collecting and providing TINs, and strategies for resolving such barriers. The preparation and review of TIN Implementation Reports will enable payment certifying agencies and FMS to best determine how to resolve these issues. For additional information on these reports, FMS is publishing elsewhere in this issue of the **Federal Register** a Policy Statement concurrently with this document.

Agencies are reminded that the DCIA has required them to furnish the TINs of payment recipients on all certified vouchers submitted to disbursing officials since April 26, 1996, the effective date of the DCIA. In its interim rule creating 31 CFR Part 208, Management of Federal Agency Disbursements, FMS advised agencies of this DCIA requirement. *See* 61 FR 39254, July 26, 1996. Prior to the enactment of the DCIA, FMS issued Treasury Financial Management Bulletin No. 95–10 on August 18, 1995, which required that the payee's TIN be included on all certified vouchers for vendor, miscellaneous, and salary payments. Currently, FMS is working to ensure that TIN requirements for contractors and vendors are incorporated in anticipated revisions to the Prompt Payment circular issued by the Office of Management and Budget (OMB) (OMB Circular No. A–125, rev. Dec. 12, 1989), in consultation with FMS, and in anticipated revisions to the Federal Acquisition Regulations (48 CFR).

Therefore, for the foregoing reasons, FMS withdraws the proposed rule published on September 2, 1997. Agency compliance requirements with respect to the TIN requirement are set forth in the Policy Statement referenced above.

Authority and Issuance

For the reasons set out above, 31 CFR Part 212, Taxpayer Identifying Number Requirement, Proposed Rule, 62 FR 46428, September 2, 1997, is withdrawn.

Authority: 5 U.S.C. 301; 31 U.S.C. 321, 3301, 3302, 3321, 3325, and 3528.

Dated: October 5, 1998.

Richard L. Gregg,

Commissioner.

[FR Doc. 98–27069 Filed 10–8–98; 8:45 am]

BILLING CODE 4810–35–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7258]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate,

500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

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

§ 67.4

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California	San Diego (City), San Diego County.	Alvarado Creek	At confluence with San Diego River	None	*66
			Approximately 2,850 feet upstream of Alvarado Road.	None	*379
Maps are available for inspection at Engineering and Capital Projects, 1010 Second Avenue, Suite 1200, San Diego, California. Send comments to The Honorable Susan Golding, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, California 92101.					
Missouri	Alexandria (City), Clark County.	Mississippi River	At intersection of Tilford and Pecan	*492	*492
			At intersection of Walnut and Washington	*492	*492
Maps are available for inspection at the City of Alexandria Planning Department, 505 Jackson, Alexandria, Missouri. Send comments to The Honorable Robert Davis, Mayor, City of Alexandria, P.O. Box 194, Alexandria, Missouri 63430.					
	Newton County, (Unincorporated Areas).	Culpepper Creek	Approximately 1,150 feet downstream of Webert Road.	*1,037	*1,037
			Approximately 100 feet downstream of Old County Highway East.	*1,051	*1,050
			Approximately 2,800 feet upstream of Main Street.	*1,075	*1,075
		Wolf Creek	At confluence with Culpepper Creek	None	*1,044
			Approximately 3,050 feet upstream of confluence with Culpepper Creek.	None	*1,059
Maps are available for inspection at Wood and Main Streets, Neosho, Missouri. Send comments to The Honorable Edmon L. Powell, Presiding Commissioner, Wood and Main Streets, Neosho, Missouri 64850.					
Nevada	West Wendover (City), Elko County.	Shallow Flooding	Along Wendover Boulevard, approximately 5,500 feet northwest of the intersection of Wendover Boulevard and State Highway 93A.	None	#1

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Along Wendover Boulevard, approximately 2,000 feet northwest of the intersection of Wendover Boulevard and State Highway 93A.	None	#1
			Approximately 500 feet east of the intersection of Wendover Boulevard and State Highway 93A.	None	*4,327
			Approximately 2,500 feet north of Interstate Highway 80, along the Nevada/Utah State line.	None	#2
			Approximately 500 feet southeast of the intersection of State Highway 93A and the Union Pacific Railroad.	None	#1
			Just north of State Highway 93A, approximately 5,000 feet southwest of the intersection of State Highway 93A and the Union Pacific Railroad.	None	#3

Maps are available for inspection at 801 Alpine Street, West Wendover, Nevada.

Send comments to The Honorable Walt Sonders, Mayor, City of West Wendover, P.O. Box 2825, West Wendover, Nevada 89883.

Oregon	Clatsop County (Unincorporated Areas).	Neacoxie Creek	Approximately 70 feet downstream of Golf Course Road.	None	*14
			870 feet upstream of Surf Pines Road	None	*20

Maps are available for inspection at the Clatsop County Planning Department, 800 Exchange, Suite 100, Astoria, Oregon.

Send comments to The Honorable Helen Westbrook, Chairperson, Clatsop County Board of Commissioners, County Courthouse, 749 Commercial Street, Astoria, Oregon 97103.

	Gearhart (City) Clatsop County.	Neacoxie Creek	Approximately 70 feet downstream of G Street.	*11	*11
			Approximately 50 feet upstream of Golf Course Road.	*11	*17

Maps are available for inspection at the City of Gearhart City Hall, 698 Pacific Way, Gearhart, Oregon.

Send comments to The Honorable Kent Smith, Mayor, City of Gearhart, P.O. Box 2510, Gearhart, Oregon 97138.

Texas	Austin County and Incorporated Areas.	Allens Creek	Approximately 2,825 feet downstream of Atchison, Topeka, and Santa Fe Railroad bridge.	*157	*157
			Approximately 1,870 feet downstream of Atchison, Topeka, and Santa Fe Railroad bridge.	*158	*159
			Approximately 1,300 feet upstream of U.S. Route 90.	*180	*179
			Approximately 1,690 feet downstream of Atchison, Topeka, and Santa Fe Railroad bridge.	*158	*160
			Approximately 530 feet downstream of Atchison, Topeka, and Santa Fe Railroad bridge.	*159	*161
			Approximately 1,300 feet upstream of U.S. Route 90.	*180	*179
			Approximately 3,000 feet downstream of Atchison, Topeka, and Santa Fe Railroad.	*158	*158
			Just upstream of U.S. Route 10	*172	*172
			Approximately 1,300 feet upstream of U.S. Route 90.	*180	*179

Maps are available for inspection at the City of Sealy Public Works Department, 415 Main Street, Sealy, Texas.

Send comments to The Honorable Betty Reinbeck, Mayor, City of Sealy, P.O. Box 517, Sealy, Texas 77474.

Maps are available for inspection at the Austin County Courthouse, 1 East Main Street, Bellville, Texas.

Send comments to The Honorable Carolyn Bilski, Austin County Judge, 1 East Main Street, Bellville, Texas 77418.

Washington	Ferry County (Unincorporated Areas).	Kettle River	Approximately 475 feet downstream of confluence with Cottonwood Creek.	None	*1,789
			Approximately 600 feet upstream of confluence with unnamed tributary.	None	*1,7940

State	City/town/county	Source of flooding	Location	# Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 1,100 feet downstream of confluence with Emanuel Creek.	None	*1,798

Maps are available for inspection at the Ferry County Planning Department, 146 North Clark, Suite 7, Republic, Washington.

Send comments to The Honorable Dennis A. Stock, Chairperson, Ferry County Commissioners, County Courthouse, 350 East Delaware, Republic, Washington 99166.

	Thurston Country (Unincorporated Areas).	Yelm Creek	4,300 feet upstream from the interesection of Crystal Spring and Canal Roads.	None	*302
			2,500 feet west of Clark Road	None	*302
			At the junction of State Highway 507	None	*344
			1,003 feet upstream of Bald Hill Road	None	*348
	Thurston County (Unincorporated Areas).	Yelm Creek	4,300 feet upstream from the intersection of Crystal Spring and Canal Roads.	None	*302
			2,500 feet west of Clark Road	None	*302
			At the junction of State Highway 507	None	*344
			1,003 feet upstream of Bald Hill Road	None	*348

Maps are available for inspection at Thurston County Development Services, 2000 Lakeridge Drive, Southwest, Building 1, Olympia, Washington.

Send comments to The Honorable Richard Q. Nichols, Thurston County Commissioner, 2000 Lakeridge Drive, Southwest, Building 1, Room 269, Olympia, Washington 98502.

	Yelm (City), Thurston County.	Yelm Creek	Approximately 4,125 feet downstream of Crystal Springs Road.	None	*302
			Approximately 175 feet downstream of the Burlington Northern Railroad.	None	*331
			Approximately 2,400 feet upstream of 103rd Avenue.	None	*343

Maps are available for inspection at the City of Yelm Planning Department, 105 Yelm Avenue West, Yelm, Washington.

Send comments to The Honorable Kathryn Wolf, Mayor, City of Yelm, P.O. Box 479, Yelm, Washington 98597.

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

Dated: September 29, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–27239 Filed 10–8–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 61 and 69

[CC Docket Nos. 96–262, 94–1, and 97–250, RM–9210; FCC 98–256]

Access Charge Reform, Pricing Flexibility

AGENCY: Federal Communications Commission.

ACTION: Petitions for rulemaking.

SUMMARY: This public notice invites parties to update the record on petitions for reconsideration, and to comment on several petitions for rulemaking. All these petitions raise issues related to access charge reform or access charge pricing flexibility for incumbent local exchange carriers.

DATES: Comments are due on or before October 26, 1998. Reply comments are due on or before November 9, 1998. All comments should reference CC Docket No. 96–262, CC Docket No. 94–1, and RM–9210.

ADDRESSES: Comments should be sent to the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Tamara Preiss, 418–1505, or Harold Watson, 202–418–1520. TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Public Notice released October 5, 1998. The full text of this Public Notice is available for inspection and copying during normal business hours in the FCC Public Reference Room (Room 230), 1919 M Street, N.W., Washington, D.C. 20554. The complete text of this Public Notice may also be purchased from the Commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036.

The *Access Charge Reform* and *Price Cap* proceedings will continue to be permit-but-disclose proceedings for purposes of the Commission's *ex parte* rules, 47 CFR 1.1200 *et seq.* Parties must file an original and four copies of their comments with the Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554, in accordance with 47 CFR 1.51(c). Parties also must send one copy of their comments to the Commission's copy contractor, International Transcription Service, 1231 20th Street, N.W., Washington, D.C. 20036, and one copy to Chief, Competitive Pricing Division, Common Carrier Bureau, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

Summary of Public Notice

In the *Access Charge Reform Order,* 62 FR 31040 (June 6, 1997), and the *Price Cap Fourth Report and Order,* 62 FR 31939 (June 11, 1997), the Commission adopted a presumptively market-based approach to access reform and a permanent price cap plan with an X-factor of 6.5 percent. Since then, several parties have filed petitions

proposing significant changes to these orders, or have made *ex parte* presentations to propose ideas not presented in comments. In addition, parties have had the opportunity to observe changes in the level of competition in the marketplace. In this Public Notice, we invite parties to update and refresh the record on specific issues in these two proceedings to reflect all these developments. We note that implementation of high-cost universal service support also requires changes to access charges and that, therefore, access charge reform will be considered together with implementation of high-cost universal service support.

First, in their petitions for reconsideration of the *Price Cap Fourth Report and Order*, some parties have argued for a higher X-Factor, and some have argued for a lower X-Factor, for use in determining the price cap indices for price cap local exchange carriers (LECs). Parties are invited to update their comments and refresh the record on the specific arguments raised in these petitions for reconsideration.

In addition, Bell Atlantic and Ameritech have made specific pricing flexibility proposals that differ in several respects from proposals contained in the record developed in response to the *Access Charge Reform Notice*, 62 FR 4670 (January 31, 1997). First, because these proposals were made a year after issuance of the *Access Charge Reform Order*, they reflect both the measures adopted by the Commission in that order and developments in the marketplace since adoption of that order. Second, Bell Atlantic and Ameritech propose that the criteria used to evaluate the degree of competition vary by service. They also set forth proposals for phased relief as the competition in various services increases. We seek comment on these proposals.

Finally, on December 9, 1997, the Consumer Federation of America, the International Communications Association, and the National Retail Federation petitioned the Commission to initiate a rulemaking addressing the prescription of interstate access rates to cost-based levels. On February 24, 1998, MCI petitioned the Commission to "re-visit and significantly modify its Access Reform policies by July 1, 1998." Parties are invited to update their comments and refresh the record for both of these proceedings based on intervening events. Parties are specifically invited to comment on whether and how we could implement specific forms of pricing flexibility for LECs subject to prescriptive access rates. To the extent that we have not already addressed the concerns set forth in MCI's petition, we will consider MCI's petition in connection with RM–9210. Any updates or comments on matters contained in MCI's petition should be filed in that proceeding.

List of Subjects in 47 CFR Parts 61 and 69

Communications common carriers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–27189 Filed 10–8–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–180, RM–9365]

Radio Broadcasting Services; Fremont and Holton, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Noordyk Broadcasting, Inc. proposing the reallotment of Channel 261A from Fremont, Michigan, to Holton, Michigan, as that community's first local service and modification of its license for Station WSHN to specify Holton as its community of license. Canadian concurrence will be requested for this allotment at coordinates 43–28–15 and 85–56–25. In accordance with Section 1.420(i) of the Commission's Rules, we shall not accept competing expressions of interest in the use of Channel 261A at Holton or require petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before November 23, 1998, and reply comments on or before December 8, 1998.

ADDRESSES: Federal Communications Commission, Washington, DC. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Cary S. Tepper, Booth, Freret, Imlay & Tepper, P.C., 5101 Wisconsin Avenue, N.W., suite 307, Washington, DC 20016–4120.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–180, adopted September 23, 1998, and released October 2, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

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. 98–27067 Filed 10–8–98; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–179; RM–9334]

Radio Broadcasting Services; Oraibi and Leupp, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Oraibi Media Association, permittee of Station KBDT(FM), Channel 255C, Oraibi, Arizona, requesting the reallotment of Channel 255C to Leupp, Arizona, and modification of its authorization accordingly. Coordinates used for Channel 255C at Leupp, Arizona, are 35–26–34 NL and 110–58–40 WL.

The petitioner's modification proposal complies with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, we will not accept competing expressions of interest in the use of Channel 255C at Leupp, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before November 23, 1998, and reply comments on or before December 8, 1998.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: David D. Oxenford and Jason S. Roberts, Esqs., Fisher Wayland Cooper Leader & Zarazoga, L.L.P., 2001 Pennsylvania Avenue, NW., Suite 400, Washington, DC 20006.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 98–179, adopted September 23, 1998, and released October 2, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC'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 contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

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. 98–27066 Filed 10–8–98; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 395 and 396

[FHWA Docket No. FHWA–98–3414]

RIN 2125–AE35

Out-of-Service Criteria; Extension of Comment Period

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Re-opening of docket; request for comments.

SUMMARY: The FHWA is re-opening Docket No. FHWA–98–3414 for a period of sixty (60) days. On July 20, 1998, the FHWA published an advance notice of proposed rulemaking (ANPRM) in which the agency sought comment concerning use of the "North American Uniform Out-of-Service Criteria" (OOS Criteria) (63 FR 38791). This action today is taken in response to a written request from the Advocates for Highway and Auto Safety (AHAS). The FHWA has determined that re-opening the docket is appropriate given the complexity of the ANPRM and the need for informed public comment. The docket will be open for an additional period of 60 days.

DATES: Comments should be received on or before December 8, 1998.

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. Robert F. Schultz, Jr., Office of Motor Carrier Research and Standards (HCS–10), (202) 366–4009, or Mr. Charles Medalen (HCC–20), Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can 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 online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register's** home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara*.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1998 (63 FR 38791), the FHWA published an ANPRM concerning use of the OOS Criteria, and requested comments on the proposed amendments on or before September 18, 1998. The OOS Criteria are a reference guide developed and maintained by the Commercial Vehicle Safety Alliance (CVSA). They are not part of the Federal Motor Carrier Safety Regulations. During roadside inspections, Federal, State and local safety inspectors use the OOS Criteria as a guide in determining whether to place commercial motor vehicles (CMVs) or drivers of CMVs out-of-service. The guide enumerates conditions which the CVSA membership has agreed are sufficiently hazardous to justify restricting further operation.

Request for an Extension of the Comment Period

The AHAS requested an extension of thirty (30) days by letter dated September 1, 1998. A copy of the letter will be placed in the docket. The AHAS commented that additional time is needed to review the merits of this action, and that other FHWA dockets closing at about the same time have strained their resources.

Nineteen (19) responses to the ANPRM had been received as of September 25, 1998. Other parties have orally expressed interest in responding and have stated that they are having difficulty doing so by the deadline.

FHWA Decision

The FHWA is mindful of the need for all interested parties to have enough time to prepare relevant and useful comments. The FHWA has determined that the complexity of the ANPRM and the prospect of receiving additional responses to the ANPRM weighs in favor of re-opening the docket for an additional period of 60 days.

The FHWA therefore is extending the comment period on FHWA Docket No. FHWA–98–3414 for a 60-day period.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address. Comments received after the closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will continue to file relevant information in the docket as it becomes available after the comment closing date, and interested parties should continue to examine the docket for new materials.

List of Subjects

49 CFR Part 395

Highway safety, Motor Carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 396

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 31133, 31136, 31310, and 31502; sec. 345, Pub.L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.48.

Issued on: October 2, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–27230 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 644

[I.D. 071698B(1)]

RIN 0648–AJ67

Atlantic Billfish Fishery

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

ACTION: Notice of availability of a draft fishery management plan (FMP) amendment; request for comments.

SUMMARY: NMFS announces the submission of draft Amendment 1 to the Fishery Management Plan for the Atlantic Billfish Fishery for Secretarial review. Draft Billfish Amendment 1 defines overfishing criteria, develops rebuilding management strategies, defines essential fish habitat, and establishes framework procedures for regulatory changes affecting the management of the Atlantic billfish fishery.

DATES: Written comments on draft Billfish Amendment 1 must be received on or before January 7, 1999.

ADDRESSES: Written comments on draft Billfish Amendment 1 should be sent to, and copies of the document are available from, Rebecca Lent, Chief, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD, 20910.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin at (301) 713–2347 or Buck Sutter at (727) 570–5324.

SUPPLEMENTARY INFORMATION: The Atlantic billfish fishery is managed under an FMP implemented in March 1988, with regulations published at 50 CFR part 644 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA, 16 U.S.C. 971 *et seq.*).

Upon implementation of Billfish Amendment 1, the Secretary will implement Atlantic billfish regulations under the authority of both the Magnuson-Stevens Act and ATCA. Regulations issued under the authority of ATCA carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

If approved, Billfish Amendment 1 will define overfishing status determination criteria, which designate Atlantic blue marlin and Atlantic white marlin as overfished. NMFS has developed a two-part strategy: a suggested international rebuilding scheme and domestic management measures. Together, these two components identify biomass and fishing mortality limits and propose a suite of preferred management alternatives designed to reduce fishing mortality, bycatch, and bycatch mortality. Preferred alternatives include measures to rebuild overfished fisheries in timeframes consistent with guidelines for implementation of National Standard 1, to control fishing effort and increase the minimum size for for blue and white marlin, to implement billfish reporting requirements, and to address issues of safety at sea and enforcement. In addition, essential fish habitat (EFH) is defined for Atlantic billfish.

In a separate notice to be published in the **Federal Register**, NMFS will propose regulations to implement the preferred alternatives specified in the draft Billfish Amendment 1. During the comment period on the proposed rule, NMFS will hold public hearings on the draft Billfish Amendment 1 and on the proposed implementing regulations. The dates and locations of these public hearings will be published in the **Federal Register** at a later date. NMFS specifically requests comment on the designation of sargassum weed as EFH for Atlantic billfish. NMFS also seeks determinations from coastal states on whether the preferred management measures would be consistent with the existing or planned state regulations and should be applicable in state waters.

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 971 *et seq.*

Dated: October 5, 1998.

Gary C. Matlock,

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

[FR Doc. 98–27233 Filed 10–6–98; 2:36 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 196
Friday, October 9, 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

Forest Service

Clearwater National Forest, Idaho County, Idaho; JJ Vegetation Restoration

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The JJ Vegetation Restoration Planning Area is located west of the Powell Ranger Station, Lochsa Ranger District, Clearwater National Forest, Idaho County, Idaho. Proposed activities are located in the Lochsa River drainage. The purpose of the project are: (1) To design and implement vegetation treatments using ecosystem management principles within the forest stands that are at high risk of change in the next decade, (2) to restore forest health in timber stands being affected by Douglas-fir bark beetles and root rot disease, and (3) to restore and maintain aquatic ecosystem structure and function to provide historic habitat conditions for aquatic species.

The Lochsa Ranger District (Powell Ranger Station) will begin public scoping on the JJ Vegetation Restoration project with the publication of this Notice. This area was identified in the Lost Postman Watershed Analysis as a high priority for treatment to improve the tree species composition and structure. Fire suppression over the last fifty years has permitted shade tolerant grand fir and Douglas-fir trees to grow into the forest under the overstory ponderous pine and large fire resistant Douglas-fir trees. This has created an overstocked, two-story forest that is susceptible to root rot and Douglas-fir back beetle. The tree mortality and subsequent fuel buildup, including ladder fuels, has created a forest condition at high risk for catastophic change. Silvicultural action at this time can restore the healthy productivity and natural ecologic condition of this forest.

Therefore, the Powell Ranger Station of the Lochsa Ranger District is proposing to prepare the JJ Vegetation Restoration Analysis to evaluate the environmental effects of using timber harvest and prescribed fire to reduce tree density and restore a more natural tree species composition and structure. Timber harvest and prescribed fire is proposed on approximately 700 acres. Helicopter logging units using a combination of improvement cuts and shelter-wood regeneration methods are planned. This would yield about 7 mmbf of timber for commercial sale. No new roads would be constructed. Existing helicopter landing sites along Highway 12 would be used. The JJ's Analysis will also consider a reasonable range of alternatives to the proposed action.

This project will be designed to reduce the density of forest vegetation on this overstocked, south facing hillside as outlined in the Lost Postman Watershed Analysis. The subsequent reduction in biomass and fuels will reduce the risk of a lethal, stand replacement wildfire. The proposal will also be designed to reduce the effects of Douglas-fir bark beetles and root rot disease on tree mortality. This will have the added benefit of maintaining the scenic quality of the forest as viewed from the Lochsa River (a Wild and Scenic River) and Highway 12. Enhancement of wildlife habitat for species such as the flammulated owl, black-backed woodpecker, fisher and elk is also a benefit of the proposed action.

This project level EIS will tier to the Clearwater National Forest Land and Resource Management Plan (Forest Plan) and Final EIS (September 1987), which provides overall guidance of all land management activities on the Clearwater National Forest.

Analysis will be conducted in compliance with the Clearwater Forest Plan lawsuit Stipulation of Dismissal agreement between the Forest Service and the Sierra Club, et al (signed September 13, 1993).

DATES: Comments in response to this Notice of Intent should be received in writing on or before November 23, 1998 to receive timely consideration in the preparation of the Draft EIS. The Draft EIS is planned to be filed with the Environmental Protection Agency in March 1999. The Final EIS and Record of Decision are expected to be issued in December 1999.

ADDRESSES: Send written comments and suggestions on the proposed action or requests for a map of the proposed action or to be placed on the project mailing list to Dennis Elliott, Deputy District Ranger, Powell Ranger Station, Clearwater National Forest, Lolo, Montana 59847.

Responsible Official: James L. Caswell, Forest Supervisor, Clearwater National Forest, will be the Responsible Official for this project.

FOR FURTHER INFORMATION CONTACT: Dennis Elliott, Deputy District Ranger, Powell Ranger Station, Clearwater National Forest, (208) 942–3113.

SUPPLEMENTARY INFORMATION: In 1997, the Lost Postman Watershed Assessment was completed. This assessment recommended a variety of management actions designed to restore forest health. Because of the wide range of actions and their dispersed locations, it was elected not to propose and analyze all of the recommendations in one single project. Instead, a logical array of smaller individual projects which are not connected actions have been proposed. The JJ Vegetation Restoration proposal is one of the recommended actions.

Preliminary issues include the following:

- How will the proposed action and alternatives maintain or enhance the long-term sustain-ability of these ecosystems through vegetation management? How will they address vegetation structure and composition, insects and diseases, maintenance of wildlife habitat and production of wood products?
- How will the proposed action and alternatives protect the quantity and quality of water and aquatic habitat?
- How will the proposed action and alternatives provide high quality recreation opportunities, especially maintaining the use and enjoyment of the Lolo Trail and Lochsa Wild and Scenic River Corridors? How will the views from the Lolo Trail and the Lochsa River corridors be protected?
- How will the proposed action and alternatives be designed to produce goods and services yet minimize impacts to other resources? Will the

actions pay for themselves without resulting in a deficit timber sale?

These issues will be refined and developed in detail as scooping proceeds. Comments on the issues and suggestions for additional issues are welcome in response to this Notice of Intent.

Public scoping and involvement will begin with the publication of this notice. A scoping letter that describes the proposed action and preliminary issues will be mailed to members of the Powell NEPA mailing list. The interdisciplinary team will be working to develop a range of alternatives to the proposed action and to assess the environmental effects of the alternatives. One of the alternatives will be the "No Action" alternative. Other alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the environmental issues and other resource values. Comments concerning the range of alternatives or possible environmental effects would be useful to the team in completing their analysis.

The Clearwater National Forest Land Management Plan provides the land management direction for the JJ's Planning Area. Forest Plan Management Areas in the JJ's analysis include the following:

E1-Timber producing land managed for healthy forests and optimum tree growth.

A7-Recreation River Corridor managed for dispersed recreation, water quality and visual resources.

C4-Big game winter range managed for browse and timber production.

It is anticipated that the environmental analysis and preparation of the draft and final environmental impact statements will take about one year. The draft environmental impact statement can be expected in March 1999 and a final environmental impact statement can be expected in December 1999.

A 45 day comment period will be provided for the public to make comments on the draft environmental impact statement. This comment period will be in addition to scoping and will begin when the Environmental Protection Agency's Notice of Availability of the Draft EIS appears in the **Federal Register**. A Record of Decision will be prepared and filed with the final environmental impact statement. A forty-five day appeal period will be applicable.

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. To be most helpful, comments on the draft environmental statement should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (see Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC* 435 US 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure 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.

Comment received in response to this solicitation, including names and address of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Part 215 or 217.

I am the responsible official for this environmental impact statement. My address is Clearwater National Forest, 12730 Highway 12, Orofino, ID 83544.

Dated: September 29, 1998

Douglas E. Gochnour,

Acting Forest Supervisor, Clearwater National Forest.

[FR Doc. 98–27116 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Yakima Provincial Advisory Committee will meet on October 7, 1998, at the Cle Elum Ranger District office, 803 W. 2nd. Street, Cle Elum, Washington. The meeting will begin at 9:00 a.m. and continue until 4:00 p.m. During the morning segment of this meeting the group will be visiting the upper Cle Elum Valley area, and during the afternoon they will be reconvening in Cle Elum to discuss dispersed recreation management. All Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–662–4335.

Dated: September 14, 1998.

Sonny J. O'Neal,

Forest Supervisor, Wenatchee National Forest.

[FR Doc. 98–27203 Filed 10–8–98; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals 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, and to delete commodities previously furnished by such agencies.

Comments must be received on or before: November 9, 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.

Additions

If the Committee approves the proposed addition, 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 will result in authorizing small entities to furnish the commodity and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the 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

Strap, Webbing
5340–00–854–6736
NPA: The Charles Lea Center for Rehabilitation and Special Education, Inc., Spartanburg, South Carolina

Services

Food Service Attendant
Marine Corps Air Station
Beaufort, South Carolina
NPA: Goodwill Industries of Lower South Carolina, Inc., North Charleston, South Carolina

Grounds Maintenance
National Institute for Occupational Safety and Health
1095 Willowdale Road
Morgantown, West Virginia
NPA: PACE Training & Evaluation Center, Inc., Star City, West Virginia

Janitorial/Custodial
U.S. Courthouse and Annex
Tallahassee, Florida
NPA: Thomas-Grady Mental Retardation Services Center, Thomasville, Georgia

Janitorial/Custodial
Fort McPherson, Georgia
NPA: WORKTEC, Jonesboro, Georgia

Janitorial/Custodial
AMSA #106
Punxsutawney, Pennsylvania
NPA: ICW Vocational Services, Inc., Indiana, Pennsylvania

Janitorial/Custodial
Major Charles D. Stoops USARC
Punxsutawney, Pennsylvania
NPA: ICW Vocational Services, Inc., Indiana, Pennsylvania

Laundry Service
Department of Veterans Affairs Medical Center
5600 West Dickman Road,
Battle Creek, Michigan
NPA: Calhoun County Community Mental Health Services Board, Battle Creek, Michigan

Library Services
Davis-Monthan Air Force Base, Arizona
NPA: J.P. Industries, Inc., Tucson, Arizona

Microfiche/Microfilm Reproduction
Great Plains Area
Department of Housing and Urban Development (HUD)
Chicago, Illinois
NPA: Lester and Rosalie ANIXTER CENTER, Chicago, Illinois

Operation of Individual Equipment Element Store
Luke Air Force Base, Arizona
NPA: Arizona Industries for the Blind, Phoenix, Arizona

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41U.S.C. 46–48c) in connection with the commodities and services proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Cover, Bed

7210–01–116–7856
7210–01–120–0679
7210–01–120–8019
7210–01–116–7855
7210–01–120–8018
7210–01–120–8009
7210–01–120–8017
7210–01–120–8014
7210–01–120–8016
7210–01–116–7853
7210–01–124–8303
7210–01–118–4085
7210–01–120–8022
7210–01–120–8021
7210–01–122–5015
7210–01–123–5149
7210–01–125–9250
7210–01–120–8015
7210–01–120–8012
7210–01–120–8011
7210–01–116–7859
7210–01–123–5148
7210–01–116–7858
7210–01–116–7860
7210–01–120–8020
7210–01–116–7857
7210–01–116–7854
7210–01–120–8013
7210–01–124–7626
7210–01–120–8010

Pillow, Bed

7210–00–753–6228

Handle, Mop

7920–00–550–9912
7920–00–550–9911
7920–00–550–9902

Beverly L. Milkman,
Executive Director.

[FR Doc. 98–27191 Filed 10–8–98; 8:45 am]
BILLING CODE 6353–01–U

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: November 9, 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: On July 24, August 7, 21, and 28, 1998, the Committee for Purchase From People

Who Are Blind or Severely Disabled published notices (63 FR 39812, 42365, 44834 and 45996) of proposed additions to and deletions from the Procurement List:

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Janitorial/Custodial, Ronald Reagan Federal Building and U.S. Courthouse, 411 W Fourth Street, Santa Ana, California

Janitorial/Custodial, DLA Warren Depot, Pine Street Extension, Warren, Ohio

Janitorial/Custodial, Building R–20, Naval Air Station, Whidbey Island, Washington.

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41U.S.C. 46–48c) in connection with the services deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Accordingly, the following commodities are hereby deleted from the Procurement List:

Curtain, Blackout

7230–01–136–7054
7230–00–997–1488

Bag, Parts 8105–LL–B00–9974

8105–LL–B00–0210
8105–LL–B00–9975
8105–LL–B00–0209
8105–LL–B00–0208
(Requirements of the Mare Island Naval Shipyard, CA only)

Beverly L. Milkman,

Executive Director.

[FR Doc. 98–27192 Filed 10–8–98; 8:45 am]

BILLING CODE 6353–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Florida Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 4:30 p.m. on November 13, 1998, at the Hyatt Regency at Miami Convention Center, 400 S.E. Second Avenue, Miami, Florida 33131. The purpose of the meeting is to collect in a conference setting updated information on Immigration and Federal law enforcement in Florida.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 24, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–27109 Filed 10–8–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Georgia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 12:00 p.m. and adjourn at 4:00 p.m. on October 30, 1998, at the Savannah Civic Center, Andrew Bryan Room, 2nd Floor, Liberty at Montgomery Streets, Savannah, Georgia 31402. The purpose of the meeting is to discuss civil rights issues in Georgia and to plan a symposium on the status of civil rights in Georgia.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 24, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–27110 Filed 10–8–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Illinois Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on October 16, 1998, at 55 West Monroe Street, Suite 1660, Chicago, Illinois 60603. The

purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Mathewson, 312–360–1110, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 24, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–27111 Filed 10–8–98; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the North Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the North Dakota Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on October 29, 1998, at the Comfort Suites-Fargo, 1415 35th Street, South, Fargo, North Dakota 58103. The purpose of the meeting is to provide orientation for new members and review draft of a Committee report concerning civil rights enforcement efforts in North Dakota.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, September 24, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–27112 Filed 10–8–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket No. 980729251–8251–01]

RIN 0607–AA19

DEPARTMENT OF THE TREASURY

Customs Service

Automated Export System (AES) Program Status

AGENCIES: Census, Commerce, and Customs Service, Treasury.

ACTION: General notice.

SUMMARY: On June 19, 1995, the Department of the Treasury's Customs Service announced the implementation of the Automated Export System (AES), a reporting system jointly developed by the Bureau of the Census (Census Bureau) and the Customs Service (Customs) allowing for the electronic transmission of shipper's export information, in the **Federal Register** (60 FR 32040). This notice informs the public of the current status of the AES program and enhancements that will be made to the AES as a result of Interest Based Negotiations (IBN) between Customs, the Census Bureau, and representatives of the trade community to create a more viable export reporting program. This notice also informs the public that the present Automated Export Reporting Program (AERP), a Census Bureau program, will expire on December 31, 1999, and that the AES Post-Departure Authorized Special Status (AES–PASS) program, a feature of AES developed to address specific concerns of the trade community, will cease operation. This notice further announces that the Census Bureau and Customs are developing regulations to implement provisions and requirements for filing export information electronically using the AES.

The continuing development of the AES functions is designed to facilitate trade by reducing the administrative costs for both industry and government in the reporting, collection, and processing of required export information, and providing the government with better law enforcement opportunities in the administration of export laws by allowing for the earlier collection and review of export information.

FOR FURTHER INFORMATION CONTACT: At Customs: John Dagostino, Office of Field Operations, Outbound Process, 7501 Boston Boulevard, Mail stop 208/d–98, Springfield, VA 22153; by phone at (703) 921–7464. At Census: C. Harvey Monk, Jr., Chief, Foreign Trade Division, Bureau of the Census, Room 2104, Federal Building 3, Washington, DC 20223–6700; by phone at (301) 457–2255; by fax on (301) 457–2645; or by e-mail at c.h.monk.jr@ccmail.census.gov.

SUPPLEMENTARY INFORMATION:

Background

Export Filing Requirements

Pursuant to Title 13, United States Code (U.S.C.) 301, the Secretary of Commerce is required to collect information from all persons engaged in foreign commerce or trade; the Census Bureau has been delegated this responsibility by the Secretary of Commerce. The filing requirements applicable to vessel outward manifests are contained in Section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91). The regulations that implement the Census Bureau's procedures regarding the submission of Shipper's Export Declarations (SEDs) for commodity information are contained in the Foreign Trade Statistics Regulations, 15 CFR Part 30.

The Census Bureau is responsible for collecting, compiling, and publishing export trade statistics. However, Customs physically collects the outward manifest and SED documents and forwards the SEDs to the Census Bureau for processing (see 13 U.S.C. 303). The regulations that provide for Customs procedures regarding the submission of outbound manifests are found in Parts 4 (for Sea Carriers) and 122 (for Air Carriers) of the Customs Regulations (19 CFR Parts 4 and 122). Customs uses the information contained in outward manifests to enforce export laws and regulations administered by the Bureau of Export Administration, the Office of Defense Trade Controls, the Office of Foreign Asset Controls, the Drug Enforcement Administration, the Department of the Treasury, and other local and federal agencies.

Current Filing Procedures

Current Census Bureau export filing requirements provide for the reporting of information by exporters using the paper SED (15 CFR 30.3). Normally, the exporter is required to submit SED information prior to the exportation of the merchandise (15 CFR 30.12). Census Bureau Regulations (15 CFR 30.39(b)) also provide for the alternate reporting of certain export information electronically after departure through the AERP. The AERP allows certain participating exporters to report their export information electronically to the Census Bureau on a monthly basis, in a

single report. The AERP provides a convenience to exporters for Census Bureau statistical purposes, but is of limited value to Customs in its enforcement of export laws because there is no export information required to be filed prior to the export of the merchandise. For these and other reasons discussed below, the AERP will be terminated on December 31, 1999.

Census Bureau Regulations (15 CFR 30.39) also allow for export reporting through the AES, a separate electronic filing system jointly developed with Customs. As originally designed, use of the AES required that all export information be submitted prior to departure and did not provide the same monthly reporting privileges to exporters as the AERP. In order to meet the needs of the trade community for a post-departure filing option, the AES–PASS program was developed. The AES–PASS program allowed qualified exporters to transmit pre-departure "IOU" information electronically to Customs, to be followed by post-departure submission of the remaining commodity information within a specified time period.

Development of the AES

The purpose of the AES is to support the Customs outbound mission by providing a voluntary information gateway through which the trade community and Federal Government agencies can electronically exchange export data that will facilitate the collection and processing of export information and improve enforcement and compliance with U.S. export laws. The AES provides an alternative to filing the paper SED that is perceived as burdensome by the trade community, inefficient by the government for the collection of statistics, and of limited use in the enforcement of U.S. export laws. The AES is being designed to give the trade community the following benefits: (a) Fewer delays by Customs due to missing paper work; (b) fewer, but more efficient, inspections of export shipments; (c) more consistent application of export laws, and (d) reduced administrative costs due to automation. Further, AES enables government agencies with export responsibilities to collect statistics more efficiently, enforce their export requirements, and reduce their administrative costs.

In July of 1995, AES was initiated (see **Federal Register**, June 19, 1995 (60 FR 32040)) in the vessel ports of Baltimore, Norfolk, Charleston, Houston, and Los Angeles. By the end of 1996, AES was expanded to all Customs vessel ports of entry. The AES is continually being enhanced to ensure that the system is in conformance with standard industry practices concerning the collection of manifest information from sea carriers and commodity information from exporters. Future plans for the AES include the development of modules to accept: (1) Air and rail manifest information; (2) consolidated shipment information from exporter's agents; (3) manifest and shipment information from express carriers; and (4) drawback claims.

While the AES has been continually enhanced since its implementation, the trade community has expressed concerns over the design of AES, specifically the requirement to transmit all commodity information prior to departure of the exporting carrier. As mentioned previously, the AES did not provide some of the privileges afforded by the Census Bureau's AERP. Although AES–PASS was developed by Customs in an attempt to provide some of these privileges to exporters, the trade community continued to express the opinion that neither AES nor AES–PASS conformed to current business practices and that each program constituted a hindrance to the total voluntary acceptance of AES by the trade community.

To ensure that the AES meets current business practices and voluntary acceptance by the trade community, Customs and the Census Bureau entered into IBN with representatives of the trade community to discuss further enhancements and to determine time frames for the submission of export information. The trade community was represented by the Customs Oversight Activities Committee and other members of the exporting community.

As a result of the IBN, two significant improvements to the AES were agreed to:

1. Creation of a filing option that requires no pre-departure information be filed by qualified participants (with the filing of full commodity information within ten (10) working days from the date of exportation).

2. Creation of a two-stage filing option available to all filers that allows for transmissions where some basic export information is filed prior to departure with the remainder of the information filed within five (5) working days from the date of exportation.

The four filing options, outlined in the agreement, for the submission of commodity information are:

Option 1—Paper SEDs and Pre-Departure Filing

With Option 1, filers will continue the current procedure of filing paper SEDs with all pre-departure export information. This option will have no AES electronic component and maintains the present practice for filing export commodity information.

Option 2—AES Filing of All Pre-Departure Information

With Option 2, all commodity information will be filed electronically prior to the departure of the carrier.

Option 3—AES Filing of Partial Pre-Departure Information

With Option 3, filers will file fourteen (14) identified data elements of commodity information prior to exportation of the merchandise and transmit the remaining applicable data elements within five (5) working days of the date of exportation. This option will be available to all AES filers for those shipments that do not require full pre-departure information. However, this option will apply only to sea and air modes of transportation.

Option 4—AES Filing of Post-Departure Information:

With Option 4, qualified exporters will be allowed to export approved commodities without filing any pre-departure information. However, complete commodity information must be filed within ten (10) working days from the date of exportation. Filers with Option 4 privileges will be preapproved, having complied with a formal screening and review process through Customs, the Census Bureau, and other participating partnership agencies.

Expiration of AERP and AES–PASS

In light of the foregoing, the following programs will be terminated as follows:

1. AERP will expire December 31, 1999.

2. AES–PASS will cease operation one year after the full implementation of Option 4.

Regulations

The Census Bureau and Customs are developing regulations to implement provisions and requirements for filing export information electronically using the AES. These regulations will also include requirements for implementing the provisions of the IBN agreement.

Dated: October 1, 1998.

Concurred by:

Raymond W. Kelley,

Commissioner, U.S. Customs Service.

Department of the Treasury.

Dated: October 2, 1998.

Concurred by:
Bradford R. Huther,
Deputy Director, Bureau of the Census, Department of Commerce.
[FR Doc. 98–27096 Filed 10–8–98; 8:45 am]
BILLING CODE 3510–07–U

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of Antidumping or Countervailing Duty Order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of October 1998, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceedings	
Italy: Pressure Sensitive Tape, A–475–059	10/1/97–9/30/98
Japan:.	
Steel Wire Rope, A–588–045	10/1/97–9/30/98
Tapered Roller Bearings, Over 4 Inches, A–588–604	10/1/97–9/30/98
Tapered Roller Bearings, Over 4 Inches, A–588–054	10/1/97–9/30/98
Vector Supercomputers, A–588–841	10/16/97–9/30/98
Malaysia: Extruded Rubber Thread, A–557–805	10/1/97–9/30/98
The People's Republic of China: Barium, Chloride, A–570–007	10/1/97–9/30/98
Lock Washers, A–570–822	10/1/97–9/30/98
Shop Towels, A–570–003	10/1/97–9/30/98
Yugoslavia: Industrial Nitrocellulose, A–479–801	10/1/97–9/30/98
Countervailing Duty Proceedings	
Argentina: Leather, C–357–803	1/1/97–12/31/97
Brazil: Certain Agriculture Tillage Tools, C–351–406	1/1/97–12/31/97
Iran: Roasted In-Shell Pistachios, C–507–602	1/1/97–12/31/97
Sweden: Certain Carbon Steel Products, C–401–401	1/1/97–12/31/97
Suspension Agreements	
Kazakhstan: Uranium, A–834–802	10/1/97–9/30/97
Uranium, A–835–802	10/1/97–9/30/97
Russia: Uranium, A–821–802	10/1/97–9/30/97
Uzbekistan: Uranium, A–844–802	10/1/97–9/30/97

In accordance with § 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. In revisions to its regulations, the Department changed its requirements for requesting reviews of countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 25494 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country or origin and each country of origin is subject to a separate order, then the interested party much state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with § 351.303(f)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of October 1998. If the Department does not receive, by the last day of October 1998, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash

deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 28, 1998.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 98–27278 Filed 10–8–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Final Results of Sunset Review and Revocation of Antidumping Findings; Large Power Transformer From Italy, et al.

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

ACTION: Notice of final results of Sunset Reviews and Revocation of Antidumping Duty Findings: Large power transformers from Italy (A–475–031); Large power transformers from France (A–427–030); Large power transformers from Japan (A–588–032); Steel Jacks from Canada (A–122–006); Bicycle speedometers from Japan (A–588–038); Fish netting of manmade fiber from Japan (A–588–029); and Canned Bartlett pears from Australia (A–602–039).

SUMMARY: On July 6, 1998, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty findings on large power transformers from Italy, France, and Japan, steel jacks from Canada, bicycle speedometers from Japan, fish netting of manmade fiber from Japan, and canned Bartlett pears from Australia. Because no domestic interested party responded to the sunset review notice of initiation by the applicable deadline, the Department is revoking these findings.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Scott E. Smith, or Melissa G. Skinner, Import Administration, International Trade Administration, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, DC 20230; telephone: (202) 482–3207, (202) 482–6937, or (202) 482–1560 respectively.

SUPPLEMENTARY INFORMATION:

Background

The Treasury Department issued antidumping findings on large power transformers from Italy (37 FR 11772, June 14, 1972), large power transformers from France (37 FR 11772, June 14, 1972), large power transformers from Japan (37 FR 11773, June 14, 1972), steel jacks from Canada (31 FR 11974, September 13, 1966), bicycle speedometers from Japan (37 FR 24826, November 22, 1972), fish netting of manmade fiber from Japan, (37 FR 11560, June 9, 1972, and canned Bartlett pears from Australia (38 FR 7566, March 23, 1973). Pursuant to section 751 (c) of the Tariff Act of 1930, as amended ("the Act"), the Department initiated sunset reviews of these findings by publishing notice of the initiation in the **Federal Register** (63 FR 36389, July 6, 1998). In addition, as a courtesy to interested parties, the Department sent letters, via first class mail, to each party listed on the Department's most current service list for these proceedings to inform them of the automatic initiation of a sunset review on these findings.

No domestic interested parties in any of these sunset reviews of these findings responded to the notice of initiation by the July 21, 1998, deadline (see § 351.218 (d)(1)(i) of *Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13520 (March 20, 1998)("*Sunset Regulations*")). In the sunset review on canned Bartlett pears from Australia, the Department determined that the response filed by the California Pear Advisory Board was inadequate (see Memorandum for Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, August 17, 1998) and, therefore, consistent with § 351.218 (e)(1)(i)(C)(1) of the *Sunset Regulations* concluded that no domestic interested party responded to the notice of initiation.

Determination To Revoke

Pursuant to section 751 (c)(3)(A) of the Act and § 351.218 (d)(1)(iii)(B)(3) of the *Sunset Regulations*, if no interested party responds to the notice of initiation, the Department of Commerce shall issue a final determination, within 90 days after the initiation of the review, revoking the finding or terminating the suspended investigation. Because no domestic interested party responded to the notice of initiation by the applicable deadline July 21,1998 (see §§ 351.218 (d)(1)(i) and 351.218 (e)(1)(i)(C)(1) of the *Sunset Regulations*), we are revoking these antidumping findings.

Effective Date of Revocation

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

Dated: October 5, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–27276 Filed 10–8–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–823]

Professional Electric Cutting Tools From Japan; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of Antidumping Duty Administrative Review.

SUMMARY: On June 5, 1998, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on professional electrical cutting tools (PECTs) from Japan. The period of review (POR) covers sales of the subject merchandise to the United States during the period July 1, 1996 through June 30, 1997.

We gave interested parties an opportunity to comment on our preliminary results. Based on our analysis of the comments received, we have changed the results from those presented in the preliminary results of the review.

EFFECTIVE DATE: October 9, 1998.

FOR FURTHER INFORMATION CONTACT: Lyn Baranowski, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3208.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (62 FR 27296; May 19, 1997).

Background

On June 5, 1998, we published in the **Federal Register** (63 FR 30706) the preliminary results of the administrative review of the antidumping duty order on PECTs from Japan (58 FR 37461; July 12, 1993. We received case briefs from one respondent, Makita Corporation and Makita U.S.A., Inc. (Makita) and the petitioner, Black and Decker (U.S.), Inc. (Black & Decker) on July 6, 1998. Petitioner and respondent submitted rebuttal briefs on July 13, 1998. The Department is conducting this review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this review are shipments of PECTs from Japan. PECTs may be assembled or unassembled, and corded or cordless.

The term "electric" encompasses electromechanical devices, including tools with electronic variable speed features. The term "assembled" includes unfinished or incomplete articles, which have the essential characteristics of the finished or complete tool. The term "unassembled" means components which, when taken as a whole, can be converted into the finished or unfinished or incomplete tool through simple assembly operations (*e.g.*, kits).

PECTs have blades or other cutting devices used for cutting wood, metal, and other materials. PECTs include chop saws, circular saws, jig saws, reciprocating saws, miter saws, portable bank saws, cut-off machines, shears, nibblers, planers, routers, joiners, jointers, metal cutting saws, and similar cutting tools.

The products subject to this order include all hand-held PECTs and certain bench-top, hand-operated PECTs. Hand-operated tools are designed so that only the functional or moving part is held and moved by hand while in use, the whole being designed to rest on a table top, bench, or other surface. Bench-top tools are small stationary tools that can be mounted or placed on a table or bench. These are generally distinguishable from other stationary tools by size and ease of movement.

The scope of the PECT order includes only the following bench-top, hand-operated tools: cut-off saws; PVC saws; chop saws; cut-off machines, currently classifiable under subheading 8461 of the Harmonized Tariff Schedule of the United States (HTSUS); all types of miter saws, including slide compound miter saws and compound miter saws, currently classifiable under subheading 8465 of the HTSUS; and portable band saws with detachable bases, also currently classifiable under subheading 8465 of the HTSUS.

This order does not include: professional sanding/grinding tools; professional electric drilling/fastening tools; lawn and garden tools; heat guns; paint and wallpaper strippers; and chain saws, currently classifiable under subheading 8508 of the HTSUS.

Parts or components of PECTs when they are imported as kits, or as accessories imported together with covered tools, are included within the scope of this order.

"Corded" and "cordless" PECTs are included within the scope of this order. "Corded" PECTs, which are driven by electric current passed through a power cord, are, for purposes of this order, defined as power tools which have at least five of the following seven characteristics:

1. The predominate use of ball, needle, or roller bearings (*i.e.*, a majority or greater number of the bearings in the tool are ball, needle, or roller bearings;
2. Helical, spiral bevel, or worm gearing;
3. Rubber (or some equivalent material which meets UL's specifications S or SJ) jacketed power supply cord with a length of 8 feet or more;
4. Power supply cord with a separate cord protector;
5. Externally accessible motor brushes;
6. The predominate use of heat treated transmission parts (*i.e.*, a majority or greater number of the transmission parts in the tool are heat treated); and
7. The presence of more than one coil per slot armature.

If only six of the above seven characteristics are applicable to a particular "corded" tool, then that tool must have at least four of the six characteristics to be considered a "corded" PECT.

"Cordless" PECTs, for the purposes of this order, consist of those cordless electric power tools having a voltage greater than 7.2 volts and a battery recharge time of one hour or less.

PECTs are currently classifiable under the following subheadings of the HTSUS: 8508.20.00.20, 8508.20.00.70, 8508.20.00.90, 8461.50.00.20, 8465.91.00.35, 85.80.00.55, 8508.80.00.65 and 8508.80.00.90. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under review is dispositive.

This review covers one company, Makita Corporation (Makita), and the period July 1, 1996 through June 30, 1997.

Analysis of the Comments Received

Comment 1

Makita argues that the Department should revise its CEP profit calculations to reflect the profit from the entire foreign like product, not just the profit from the home market models that are the closest matches to the U.S. models. Makita states that the statute and the Department's regulations (*see* 19 U.S.C. section 1677a(d)(3) and 1677b(e)(2)(A), and 19 CFR 351.402(d) and 351.405(b)) require the Department to base its CEP profit calculation on the entire home market sales database reported by Makita. According to Makita, the Department has conclusively stated that a calculation of CV and CEP should be based on sales of the "foreign like product" which includes all home market sales during the POR (*see Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 33320, 33323 (June 18, 1998); *Color Picture Tubes from Japan: Final Results of Antidumping Duty Administrative Review*, 62 FR 34201 (June 25, 1997); *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore. Sweden, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043, (October 17, 1997); and *Certain Internal-Combustion Industrial Forklift Trucks from Japan: Final Results of Antidumping Duty Administrative Reviews*, 62 FR 5592 (February 6, 1997). Makita claims that in a previous administrative review of this proceeding, the Department erred in incorrectly limiting the home market database to those models used as matches for U.S. sales for the purposes

of calculating CV and CEP profit in the preliminary results. This error was corrected for the final results of that review (see *Professional Electric Cutting Tools from Japan: Final Results of Antidumping Duty Administrative Review*, 62 FR 386, 388 (January 3, 1997) (*PECT 94/95 Final*). Makita thus urges the Department to revise its calculation of CEP profit for the final results of this review and use the profit resulting from sales of all products in the home market database to calculate CEP profit.

Petitioner agrees that the Department should calculate the profit for purposes of the CEP sale on the basis of the foreign like product. However, it disagrees with Makita in its definition of the term "foreign like product." In its interpretation, petitioner claims that the term "foreign like product" is defined by the statute as the sales used as a basis of comparison with sales to the United States (19 U.S.C. section 1677b(a)). Petitioner notes that 19 U.S.C. section 1677(16)(A), (B), and (C) requires the Department to select as the foreign like product merchandise that is, in the first instance, identical to that sold in the United States. If identical merchandise does not exist, the Department may select merchandise similar to the foreign like product, the objective being to develop a pool of comparable products, the prices of which are used to calculate NV. Petitioner cites *Koyo Seiko Co., Ltd.* versus *United States*, 66 F.3d 1204, 1209 (Fed. Cir. 1995) (*Koyo Seiko*) in support of its contention that the pool of matched models is the foreign like products from which the home market portion of the CEP profit is derived.

Petitioner concludes that if the foreign like product is expanded beyond the pool of matched models to include all similar products, as respondent requests, the resulting profit figure would be unrepresentative of the products that were used to determine NV.

Department's Position

We agree with respondents that we erred in limiting the home market database to those models used as matches for U.S. sales for purposes of calculating CEP profit in the preliminary results. For the final results, we have used all sales of the foreign like product for the purposes of calculating CEP profit.

19 CFR 351.402(d)(1) specifically states that the Department "normally will use the aggregate of expenses and profit for...all foreign like products sold in the exporting country . . ." As the Department stated in *PECT 94/95 Final*, for purposes of calculating CV and CEP profit, we interpret the term "foreign like product" to be inclusive of all merchandise sold in the home market which is in the same general class or kind of merchandise as that under consideration. We have continued to follow this practice in this review.

Comment 2

Petitioner asserts that the Department incorrectly granted Makita a Constructed Export Price ("CEP") offset. As argument, they incorporated their rebuttal brief from the third administrative review of this proceeding. *See* the relevant portion of Comment 1 from the Final Results of the 95/96 Review of this proceeding (*Professional Electrical Cutting Tools from Japan: Final Results of Antidumping Duty Administrative Review*, 63 FR 6891 (February 11, 1998) (*PECT 95/96 Final*). Petitioner asserts that Makita has not established that sales to wholesalers in Japan were made at a different stage of marketing compared to its wholesaler in the United States.

Petitioner contends that even if the Department were correct that a CEP offset is appropriate, this methodology has been invalidated by the Court of International Trade in the case of *Borden, Inc. et al.* versus *United States*, 1988 WL 178722, Slip Op. 98–36 (CIT 1998) (*Borden*). Petitioner maintains that, in *Borden*, the Court held that Commerce's methodology in determining level of trade ("LOT") adjustments and CEP offsets is contrary to the clear terms of the governing statute. The Court stated that Commerce should only make price adjustments to the starting prices of CEP sales after comparing those sales to home market sales in the LOT analysis.

According to petitioner, the Department applied the methodology for adjusting and calculating CEP that the Court rejected in *Borden*, and consequently should correct this error in the final results of this administrative review.

Makita argues that the Department was correct in granting Makita a CEP offset as the Department has a complete, fully documented and verified level of trade (LOT) analysis for the record of this review supporting the granting of this offset. Specifically, Makita responds that the Department has found "vast (and verified) differences in selling functions and stages of marketing" between Makita's HM sales and its CEP sales. Makita states that this analysis resulted in a fair pricing comparison and that, as a result, the Department's analysis is in full accordance with the law.

Makita further contends that the remand guidelines established in *Borden* do not invalidate the Department's LOT methodology, claiming that the LOT analysis performed by the Department meets all of the requirements set forth in *Borden*, and provides for a fair comparison of home market and U.S. prices. Makita maintains that the Court concedes that the statutory LOT adjustments to which the Court refers could bring about the same result created by the automatic deduction of expenses under 19 U.S.C. section 1677a(d) ("section (d) expenses"). As a result, Makita argues, there is no evidence that the Department's prior deduction of expenses and profit under 19 U.S.C. section 1677a(d) in any way affects the integrity, objectivity, or completeness of its LOT analysis, or that it results in unfair price comparisons. In fact, Makita asserts that the Department considered all relevant selling functions in its level of trade analysis, not just those relating to deductible expenses.

Makita asserts that if the *Borden* guidelines are interpreted as establishing the relevant U.S. LOT at the unadjusted CEP level, and therefore not allowing the deductions of section (d) expenses at any time, then these guidelines are contrary to the law. According to Makita, under this broad view of *Borden*, the relevant U.S. LOT would be the starting price (the unadjusted CEP level), the LOT would never change over the course of the Department's entire LOT inquiry, and section (d) expenses would never be deducted. Makita believes this methodology to be inconsistent with the Court's view that a determination of the proper LOT is the very purpose of the Department's LOT inquiry, and completely ignores the fact that the statutory offset remedy is, by its very terms, designed to correct for differences in the foreign parent company's indirect selling expenses (under 19 U.S.C. section 1677b(7)(B)). Makita asserts that section (d) expenses, which are incurred by the U.S. affiliate, have no bearing on these indirect selling expenses.

Respondent continues that the starting price is, by definition, never equal to the CEP level of sales. If the Court does not allow any changes to the LOT at the starting price, or does not allow adjustments to CEP even where this is required to allow for a fair comparison of home market and U.S. pricing, then the Court is depriving litigants of access to procedures which guarantee fair results.

In respondents' view, the Department has been consistently clear in stating

that where a level of trade comparison is warranted and possible, the level of trade for CEP sales will be evaluated based on the price after adjustments are made under section 772(d) of the Act. *See Static Random Access Memory Semiconductors from Taiwan: Final Determination of Sales at Less Than Fair Value*, 63 FR 8909, 8918–8920 (February 23, 1998); and *Large Newspaper Printing Presses and Components Thereof, Whether Assembled of Unassembled from Japan: Final Determination of Sales at Less Than Fair Value*, 61 FR 38139, 38143 (July 23, 1996). Makita believes that this practice represents a reasonable interpretation of the statute and should continue to be applied in this review.

Finally, Makita claims that, assuming that the Department's LOT analysis does not comport with *Borden*, the guidelines are still not binding on the Department because (1) *Borden's* applicability is limited to its facts, and (2) the remand is not a "final decision" because the Department has indicated that it plans to appeal *Borden*.

Department's Position

We agree with respondents that we correctly granted Makita a CEP offset in this case. We concluded, based on factual evidence, that (1) significant differences exist in the selling functions associated with each of the two home market levels of trade and the CEP level of trade; (2) the CEP level of trade is at a less advanced stage of distribution than either home market level of trade; and (3) the data available do not provide an appropriate basis for a level of trade adjustment for any comparisons to CEP. Therefore, the Department has granted Makita a CEP offset for the final results.

The Department is continuing its practice, articulated in section 351.412(c) of its regulations, of making level of trade comparisons for CEP sales on the basis of the CEP after adjustments provided for in section 772(d) of the statute. As stated in *Certain Stainless Steel Wire Rods from France: Final Results of Antidumping Duty Administrative Review*, 63 FR 30185 (June 3, 1998), we recognize that the Department's practice has been criticized by the Court of International Trade in *Borden*. However, the decision in *Borden* is not final, and we believe our practice to be in full compliance with the statute and the regulations. Thus, we will continue to apply the methodology articulated in the regulations at section 351.412.

Final Results of Review

As a result of our review, we determine that the following weighted-average dumping margin exists for the period June 30, 1996, through July 1, 1997:

Manufacturer/Exporter	Margin (percent)
Makita Corporation	0.05 (de minimis)

The Department will determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date provided by section 751(a)(1) of the Act: (1) No cash deposit will be required for the reviewed company as the rate stated above is de minimis, *i.e.*, less than 0.5 percent; (2) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate of 54.52 percent, the all others rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1), that continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 5, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–27277 Filed 10–8–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980413092–8224–03]

RIN 0648–ZA39

NOAA Climate and Global Change Program, Program Announcement

AGENCY: Office of global programs, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. this program builds on NOAA's mission requirements and longstanding capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Global Change Research Program (USGCRP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agency contributions to that national effort.

DATES: Strict deadlines for submission to the FY 1999 CLIVAR-Atlantic Program process are: Letters of intent must be received at OGP no later than November 6, 1998. Full proposals must be received at OGP no later than January 15, 1999. Applicants who have not received a response to their letter of intent by December 2, 1998, should contact the program office. The time from target date to grant award varies. We anticipate that review of full proposals will occur during the spring of 1999 for most approved projects. June 1, 1999, should be used as the proposed start date on proposals, unless otherwise

directed by the Program Manager. Applicants should be notified of their status within 6 months. All proposals must be submitted in accordance with the guidelines below. Failure to heed these guidelines may result in proposals being returned without review.

ADDRESSES: Proposals may be submitted to: Office of Global Programs, National Oceanic and Atmospheric Administration, 1100 Wayne Avenue, Suite 1225, Silver Spring, MD 20910–5603.

FOR FURTHER INFORMATION CONTACT: Irma duPree at the above address, or at phone: (301) 427–2089 ext. 107, fax: (301) 427–2073, Internet: duPree@ogp.noaa.gov.

SUPPLEMENTARY INFORMATION:

Funding Availability

NOAA believes that the Climate and Global Change Program will benefit significantly from a strong partnership with outside investigators. Current program plans assume that 100% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Approximately one million dollars is expected to be available for this program. Actual funding levels will depend upon the final FY 1999 budget appropriations. This Program Announcement is for projects to be conducted by investigators both inside and outside of NOAA, primarily over a one, two or three year period. The funding instrument for extramural awards will be a grant unless it is anticipated that NOAA will be substantially involved in the implementation of the project, in which case the funding instrument should be a cooperative agreement. Examples of substantial involvement may include but are not limited to proposals for collaboration between NOAA or NOAA scientists and a recipient scientist or technician and/or contemplation by NOAA of detailing Federal personnel to work on proposed projects. NOAA will make decisions regarding the use of a cooperative agreement on a case-by-case basis. Funding for non-U.S. institutions and contractural arrangements for services and products for delivery to NOAA is not available under this announcement. Matching share is not required by this program.

Program Authority

Authority: 49 U.S.C. 44720 (b); 33 U.S.C. 883d, 883e; 15 U.S.C. 2904; 15 U.S.C. 2931 *et seq*

(CFDA No. 11.431)—Climate and Atmospheric Research

Program Objectives

The long term objective of the Climate and Global Change Program is to provide reliable predictions of climate change and associated regional implications on time scales ranging from seasons to a century or more. NOAA believes that climate variability across these time scales can be modelled with an acceptable probability of success and are the most relevant for fundamental social concerns. Predicting the behavior of the coupled ocean-atmosphere-land surface system will be NOAA's primary contribution to a successful national effort to deal with observed or anticipated changes in the global environment. NOAA has a range of unique facilities and capabilities that can be applied to Climate and Global Change investigations. Proposals that seek to exploit these resources in collaborative efforts between NOAA and extramural investigators are encouraged.

Program Priority

• CLIVAR-Atlantic Program—As an initial NOAA C&GC contribution to the emerging international Climate Variability and Predictability Programme (CLIVAR) and a follow-on to the Atlantic Climate Change Program (ACCP), proposals are sought which will address natural climate variability and predictability in the coupled ocean-atmosphere tropical Atlantic system and its interaction with higher latitude variability, such as the North Atlantic Oscillation (NAO). It is anticipated that this initial focus will lay the foundation for a more expanded CLIVAR-Atlantic Program which is being planned for FY 2000 and beyond.

In FY 1999, preference will be given to those proposals which address—through modeling, theoretical study, analysis or synthesis of existing data—the underlying mechanisms of tropical Atlantic climate variability, including potential linkages to the mid-latitudes. In addition, proposals that seek to elucidate the societal impacts of the NAO are also encouraged. For an information sheet containing further details, please contact James F. Todd, NOAA/Office of Global Programs, Silver Spring, MD: 301–427–2089 ext. 139, Internet: todd@ogp.noaa.gov

Eligibility

Extramural eligibility is not limited and is encouraged with the objective of developing a strong partnership with the academic community. Non-academic proposers are urged to seek collaboration with academic institutions. Universities, non-profit organizations, for profit organizations, State and local governments, and Indian Tribes, are included among entities eligible for funding under this announcement. While not a prerequisite for funding, applicants are encouraged to consider conducting their research in one or more of the National Marine Estuarine Research Reserve System or National Marine Sanctuary sites. For further information on these field laboratory sites, contact Dr. Dwight Trueblood, NOAA/NOS, 301–713–3145 ext. 174.

The NOAA Climate and Global Change Program has been approved for multi-year funding up to a three year duration. Funding for non-U.S. institutions is not available under this announcement.

Letters of Intent

Letters of Intent (LOI) will be used to provide advice to the recipient on suitability of projected research. (1) Letters should be no more than two pages in length and include the name and institution of principal investigator(s), a statement of the problem, brief summary of work to be completed, approximate cost of the project, and program element(s) to which the proposal should be directed. (2) Evaluation will be by program management. (3) It is in the best interest of applicants and their institutions to submit letters of intent; however, it is not a requirement. (4) Facsimile and electronic mail are acceptable for letters of intent only. (5) Projects deemed unsuitable during LOI review will not be encouraged to submit full proposals.

Evaluation Criteria

Consideration for financial assistance will be given to those proposals which address one of the Program Priorities listed below and meet the following evaluation criteria:

(1.) Scientific Merit (20%): Intrinsic scientific value of the subject and the study proposed.

(2.) Relevance (20%): Important and relevance to the goal of the Climate and Global Change Program. (See Summary)

(3.) Methodology (20%): Focused scientific objective and strategy, including measurement strategies and data management considerations; project milestones; and final products.

(4.) Readiness (20%): Nature of the problem; relevant history and status of existing work; level of planning, including existence of supporting documents; strength of proposed scientific and management team; past performance record of proposers.

(5.) Linkages (10%): Connections to existing or planned national and international programs; partnerships with other agency or NOAA participants, where appropriate.

(6.) Costs (10%): Adequacy of proposed resources; appropriate share of total available resources; prospects for joint funding; identification of long-term commitments.

Selection Procedures

All proposals, including those submitted by NOAA employees, will be evaluated and ranked in accordance with the assigned weights of the above evaluation criteria by (1) independent peer mail review, and/or (2) independent peer panel review; both NOAA and non-NOAA experts in the field may be used in this process. The program officer will not be a voting member of an independent peer panel. Their recommendations and evaluations will be considered by the Program Manager/Officer in final selections. Those ranked by the panel and program as not recommended for funding will not be given further consideration and will be notified of non-selection. Proposals rated Excellent, Very Good or Good, are usually awarded in the numerical order they are ranked based on the independent peer mail review or the independent peer panel review. However, the Program Manager will ascertain which proposals meet the program priorities (see Program Priority Section above), and do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other federal agencies. As a result of this review, the Program Manager may decide to select an award out of the ranking order provided by the peer mail or peer panel reviewers. The Program Manager will also determine the total duration of funding and the amount of funding for each selected proposal.

Unsatisfactory performance by a recipient under prior Federal awards may result in an application not being considered for funding.

Proposal Submission

The guidelines for proposal preparation provided below are mandatory. Failure to heed these guidelines may result in proposals being returned without review.

Full proposals: (1) Proposals submitted to the NOAA Climate and Global Change Program must include the original and two unbound copies of the proposal. (2) Investigators are not required to submit more than 3 copies of the proposal, however, the normal review process requires 20 copies. Investigators are encouraged to submit sufficient proposal copies for the full review process if they wish all reviewers to receive color, unusually sized (not 8.5×11"), or otherwise unusual materials submitted as part of the proposal. Only three copies of the Federally-required forms are needed. (3) Proposals must be limited to 30 pages (numbered), including budget, investigators vitae, and all appendices, and should be limited to funding requests for one to three year duration. Appended information may not be used to circumvent the page length limit. Federally-mandated forms are not included within the page count. (4) Proposals should be sent to the NOAA Office of Global Programs at the above address. (5) Facsimile transmissions and electronic mail submission of full proposals will not be accepted. (b) Required Elements: All proposals should include the following elements:

(1.) Signed title page: The title page should be signed by the Principal Investigator (PI) and the institutional representative and should clearly indicate which project area is being addressed. The PI and institutional representative should be identified by full name, title, organization, telephone number and address. The total amount of Federal funds being requested should be listed for each budget period.

(2.) Abstract: An abstract must be included and should contain an introduction of the problem, rationale and a brief summary of work to be completed. The abstract should appear on a separate page, headed with the proposal title, institution(s) investigator(s), total proposed cost and budget period.

(3.) Results from prior research: The results of related projects supported by NOAA and other agencies should be described, including their relation to the currently proposed work. Reference to each prior research award should include the title, agency, award number, PIs, period of award and total award. The section should be a brief summary and should not exceed two pages total.

(4.) Statement of work: The proposed project must be completely described, including identification of the problem, scientific objectives, proposed methodology, relevance to the goal of the Climate and Global Change Program, and the program priorities listed above. Benefits of the proposed project to the general public and the scientific community should be discussed. A year-by-year summary of proposed work must be included clearly indicating that each year's proposed work is severable and can easily be separated into annual increments of meaningful work. The statement of work, including references but excluding figures and other visual materials, must not exceed 15 pages of text. Investigators wishing to submit group proposals that exceed the 15 page limit should discuss this possibility with the appropriate Program Officer prior to submission. In general, proposals from 3 or more investigators may include a statement of work containing up to 15 pages of overall project description plus up to 5 additional pages for individual descriptions.

(5.) Budget: Applicants must submit an a Standard Form 424 (4–92) "Application for Federal Assistance", including a detailed budget using the Standard Form 424a (4–92), "Budget Information—Non-Construction Programs". The form is included in the standard NOAA application Kit. The proposal must include total and annual budgets corresponding with the descriptions provided in the statement of work. Additional text to justify expenses should be included as necessary.

(6.) Vitae: Abbreviated curriculum vitae are sought with each proposal. Reference lists should be limited to all publications in the last three years with up to five other relevant papers.

(7.) Current and pending support: For each investigator, submit a list that includes project title, supporting agency with grant number, investigator months, dollar value and duration. Requested values should be listed for pending support.

(8.) List of suggested reviewers: The cover letter may include a list of individuals qualified and suggested to review the proposal. It also may include a list of individuals that applicants would prefer to not review the proposal. Such lists may be considered at the discretion of the Program Officer.

(c) Other requirements:

(1.) Applicants may obtain a standard NOAA application kit from the Program Office.

Primary applicant Certification—All primary applicants must submit a completed Form CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying". Applicants are also hereby notified of the following:

1. Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension," and the related section of the certification form prescribed above applies;

2. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR Part 26, Subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. Anti-Lobbying—Persons (as defined at 15 CFR Part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions", and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications

(1.) Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

(2.) Recipients and subrecipients are subject to all applicable Federal laws and Federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

(3.) Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that may have been received, there is no obligation to the applicant on the part of Department of Commerce to cover pre-award costs.

(4.) This program is subject to the requirements of OMB Circular No. A–110, and 15 CFR Part 14, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations" Applications under this program are not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

(5.) All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of, or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management, honesty, or financial integrity.

(6.) A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(7.) No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to the Department of Commerce are made.

(8.) Buy American-Made Equipment or Products—Applicants are encouraged that any equipment or products authorized to be purchased with funding provided under this program must be American-made to the maximum extent feasible.

(9.) The total dollar amount of the indirect costs proposed in an application under this program must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct cost dollar amount in the application, whichever is less.

(d) If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with the award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

(e) In accordance with Federal statutes and regulations, no person on grounds of race, color, age, sex, national origin or disability shall be excluded from participation in, denied benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from the NOAA Climate and Global Change Program. The NOAA Climate and Global Change Program does not have direct TDD (Telephonic Device for the Deaf) capabilities, but can be reached through the State of Maryland supplied TDD contact number, 800–735–2258, between the hours of 8:00 am–4:30 pm.

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

Classification: The standard forms have been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB approval number 0348–0043, 0348–0044, and 0348–0046. This notice has been determined to be not significant for purposes of Executive Order 12866.

Dated: September 18, 1998.

J. Michael Hall,

Director, Office of Global Programs, National Oceanic and Atmospheric Administration.

[FR Doc. 98–27177 Filed 10–8–98; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980805207–8207–01]

RIN: 0648–ZA47

Funds Availability for the Southeast Bering Sea Carrying Capacity (SEBSCC) Project

AGENCY: Coastal Ocean Program, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Supplemental Notice for Financial Assistance for Project Grants.

SUMMARY: The NOAA Coastal Ocean Program (COP) announces an opportunity for ecosystem dynamics studies on the southeast Bering Sea shelf as part of the Southeast Bering Sea Carrying Capacity (SEBSCC) project. This announcement solicits two-year proposals for analysis, monitoring and process studies to begin in early fiscal year 1999, contingent on the availability of funds and facilities. This Phase II announcement addresses Years Three and Four of the SEBSCC program, described in detail at http://www.pmel.noaa.gov/sebscc. Phase II will be followed by two years of synthesis. Further information is described below and at SEBSCC's home page site: http://www.pmel.noaa.gov/sebscc. This supplemental notice shall

be made available at COP's home page site: http://www.cop.noaa.gov/cop-home.html. Any previous submissions to this announcement on the above web pages need not be resubmitted.

DATES: The deadline for proposals is November 9, 1998. It is anticipated that final selections for funding will be made during early FY 1999.

ADDRESSES: Submit the original and one copy of your proposal to Allen Macklin, NOAA Pacific Marine Environmental Laboratory, 7600 Sand Point Way NE, Seattle, WA 98115-0070.

FOR FURTHER INFORMATION CONTACT: If you have questions or require further technical information, contact either Allen Macklin at above-listed e-mail address and phone number; or Beth Turner, SEBSCC Coordinator, Coastal Ocean Program Office, 301–713–3338/ext 135, Internet: elizabeth.turner@noaa.gov. For Business Management Information:: Leslie McDonald, COP Grants Office, (301) 713–3338/ext 137.

SUPPLEMENTARY INFORMATION:

Background:

The Bering Sea ecosystem is influenced by climate variability. Summer of 1997 brought +3°C temperature anomalies, unusually strong stratification, a coccolithophorid bloom, and reduced numbers of foraging sea birds and returning salmon. On longer time scales, there was an almost exponential increase in jellyfish populations since 1989. Such trends and one-year events may be related to prolonged weather patterns in the North Pacific and observed shifts in Arctic climate. A key challenge for SEBSCC is to understand how such changes affect the food web and food supply to higher trophic level animals. Thus, the focus of Phase II for SEBSCC in fiscal years 1999 and 2000 is on how such physical changes affect: (1) the availability of nutrients on the Bering Sea shelf and (2) the relation of juvenile walleye pollock to top predators.

The Bering Sea ecosystem is among the most productive of high-latitude seas and supports large populations of marine fish, birds and mammals. This productivity is important to the U.S. economy in that fish and shellfish from the region constitute almost 5% of the world and 40% of the U.S. fisheries harvest. Pollock, salmon, halibut and crab generate over two billion dollars a year in fisheries revenue and provide a major source of protein. The overwhelming dominance of pollock in the Bering Sea suggests that this species currently plays a singularly important role in this ecosystem.

We do not understand the factors controlling the stability of the Bering Sea ecosystem, and there are several indications of ongoing change that cause concern. Quantifying the relative importance of natural variations and human-induced variations in plaining upper trophic level ecosystem changes is a key management issue for the Bering Sea. Differentiating trends in stock abundance attributable to human exploitation from trends due to natural variations is difficult because the fisheries and environmental time series are often short or incomplete. Trends are seldom stable and can be subject to regional variation. Important lower trophic layer changes include those natural and anthropogenic variations that cause shifts in the production of new organic matter and its vertical distribution.

SEBSCC postulates that a large fraction of the Bering Sea ecosystem energy passes through the pollock population. Juvenile pollock respond to and potentially impact primary and secondary production through grazing, and influence the availability of food for upper trophic level species, including adult pollock, seabirds and marine mammals. Pollock provide an important measure of the condition of the present ecosystem, and may be an indicator of changes in the Bering Sea over the last three decades and in the future. The SEBSCC program is designed to improve our understanding of the Bering Sea ecosystem; the results of this endeavor will directly assist fishery and resource managers.

SEBSCC Goals and Objectives

The goal of SEBSCC is to increase understanding of the southeastern Bering Sea pelagic ecosystem. New information will be used to develop and test annual indices of pre-recruit (age-1) pollock abundance, which will support management of pollock stocks and help determine the food availability to other species. The overall science goals for SEBSCC are to:

(a) Investigate influences of climate variability on the Bering Sea ecosystem; and determine what limits population growth on the Bering Sea shelf; and

(b) Identify effects of oceanographic conditions on biological distributions; and

(c) Understand environmental influences on primary and secondary production regimes.

Structure of the Research Program

SEBSCC is a NOAA COP regional ecosystem project begun in 1996. This continuing Phase II effort is managed by the University of Alaska Fairbanks, NOAA's Alaska Fisheries Science Center, and NOAA's Pacific Marine Environmental Laboratory. SEBSCC research comprises three components: monitoring, synthesis (analysis) and process-oriented field studies.

(a) Monitoring: Broad-scale studies include shipboard surveys, multi-disciplinary mooring observations, drifters and analysis of regional satellite data. Shipboard studies help to determine the distribution and abundance of target organisms in relation to their physical environment. There is a particular need for a drifter program in the outer domain of the shelf. The aim of the broad-scale studies is to provide the basis for interannual comparison of the population processes and their coupling to the physical structure and variability of the environment.

(b) Synthesis (Analysis): Synthesis begins to pull together results generated by the program and historical data to investigate the biological, physical, and geographical structure of food webs and the influence of climatic variation. Synthesis includes development of theoretical, statistical, and numerical models. In addition to modeling of geographical variability, there is an ongoing need for modeling that emphasizes trophic level interaction. Thus, proposals that develop coupled energetics, life history, and age structured models with simplified spatial dependence are strongly encouraged. A critical element of SEBSCC is the ability to evaluate models over a comprehensive time period, e.g., the suite of years from 1970 to the present.

(c) Process Studies: Process studies are nested within the broad-scale observations to investigate specific biological and physical processes. Such studies provide information necessary to develop and parameterize biophysical models. Close cooperation and interaction between process studies and the monitoring and synthesis components of the program are essential.

Phase I:

Proposals for Phase 1 studies were requested in 1996, and funded in FY97 and FY98. Summaries and results of all projects funded under Phase 1 of SEBSCC are available at their referenced web site. Central Scientific issues for Phase 1 included the following:

(1) Influence of climate variability on the Bering Sea ecosystem: Was there historical evidence for a biophysical regime shift on the Bering Sea shelf? How was this reflected in ecological relationships and species mix? Are there

"top-down" ecosystem effects associated with climate variations as well as "bottom-up" effects?

(2) Limited population growth on the Bering Sea shelf: Was there evidence of a single species carrying capacity, e.g. for pollock, or a more complex structure? What is the ecological role of pollock on the Bering Sea shelf, i.e. how are pollock, forage fish, and apex species linked through energetics and life history? How important is cannibalism?

(3) Influence of oceanographic conditions of biological distribution on the shelf: How do the separate mixing domains, sea ice, and the cold pool influence the overlap or separation between predators and prey?

(4) Possible Influences on primary and secondary production regimes: What were the sources of nutrients to the southeastern Bering Sea shelf, and what processes affected their availability? Has the variability in sea ice extent and timing been the primary factor influencing productivity? What has determined the relative allocation of organic carbon going to benthos versus that remaining in the pelagic system? What are the lower trophic level structure and energetics on the shelf in summer and winter, especially regarding euphausiids? What is the role of gelatinous organisms? Additional information about the overall SEBSCC programs supported in Phase 1 is available at http://pmel.noaa.gov/sebscc.

Phase II:

The specific objectives for Phase II are to:

(1) Determine how changes in on-shelf transport of nutrients impact pelagic food webs. This includes determination of how timing, duration, magnitude and species composition of primary, secondary and forage fish production affect food availability for higher trophic levels.

(2) Determine how climate variability influences the spatial overlap of pollock of different life stages, and how the availability of juvenile pollock to predators affects pollock survival rate.

Schedule and Proposal Submission

This opportunity is open to all interested, qualified, non-federal and federal researchers. Foreign researchers must subcontract with U.S. proposers. This announcement, and additional background information are available on the SEBSCC home page on the World Wide Web. If you are unable to access this information, either call Allen Macklin at (206) 526-6798; or send an e-mail to macklin@pmel.noaa.gov).

Full Proposals should cover a two-year project period, i.e. from date of award for twenty-four (24) consecutive months. Project is anticipated to be funded in early FY1999. Prospective investigators should provide a full scientific justification for their research and not simply reiterate justifications laid out in this Announcement or previous documents. Proposals should be written to allow adequate review of the details of such things as goals and objectives, conceptual framework, methodological approaches, integration with other likely projects and synthesis. In addition, it would be helpful if a statement is included as to how your proposed efforts are related to efforts of other potential investigators; interdisciplinary and multi-trophic level coordination are particularly encouraged. Because of an eight-page limitation for the project description, individual proposals with overly complex structure and large numbers of investigators are discouraged.

Non-federal researchers should comply with their institutional requirements for proposal submission. Non-federal researchers affiliated with NOAA-university Joint Institutes (e.g., JISAO, CIFAR) should comply with joint institutional requirements. Proposals deemed acceptable from federal researchers will be funded through their agencies; non-federal awardees will be funded through their joint institutes, as appropriate, or through a NOAA grant. Facsimile transmissions and electronic mail submission of full proposals will not be accepted.

Required Elements:

Use the following instructions when preparing your proposal. Each proposal shall include six elements:

(a) Cover page—Provide a title, a short title (<50 characters) if needed, principal investigator(s) name(s) and affiliation(s), complete address, phone, fax and e-mail information, and a budget summary broken out by year and institution.

(b) Half-page abstract—State the hypothesis to be tested, the relationship of the research to the program goal, and a summary of the key approach.

(c) Statement of Work: Project description limited to eight pages and four figures—Supply a clear statement of the work to be undertaken. Outline the broad design of activities, provide an adequate description of methods, and confirm adherence to the data policy that is posted on SEBSCC's home page. Include: (1) the objective for the period of proposed work and its expected significance, (2) the relation to the present state of knowledge in the field and relation to previous work and work in progress by the proposing principal investigator(s), and (3) a discussion of how the proposed project lends value to the program goal. Provide a full scientific justification for the research; do not simply reiterate justifications laid out in this Availability of Funds document, or other summary documents.

(d) Milestone chart - covering twenty-four consecutive months.

(e) Budget—Present the budget in fiscal year increments (1999, 2000). Include the following categories: salary and wages, fringe benefits, equipment, travel, materials and supplies (expendables), publication costs, computer services, sub-awards, total cost of this proposal, and cost sharing with other programs. Please include a budget narrative/justification to support all proposed categories.

(f) Biographical sketch—Focus on information directly relevant to undertaking the proposed research. Use no more than two pages.

(g) Proposal Format and Assembly: Staple the proposal in the upper left-hand corner, but otherwise leave it unbound. Use 1 inch (2.5 cm) margins at the top, bottom, left and right of each page. Use a clear and easily legible type face in standard size of 12 points. Print on one side of the page only.

Further Supplementary Information

(a) Program Authority (s): 33 U.S.C. 1121; 33 U.S.C. 883a et seq. 33 U.S.C. 1442; l6 U.S.C. 1456c

(b) Catalog of Federal Domestic Assistance (CFDA): 11. 478 Coastal Ocean Program

(c) Program Description: See initial COP General Notice—63 FR44237, dated August l8, 1998.

(d) Funding Availability: Funding is contingent upon receipt of fiscal years 1999 and 2000 federal appropriations. The program is expected to be funded at $1.0M per fiscal year for FY 1999 and FY 2000, with final synthesis at $0.7M in 2001 and $0.3M in 2002.

In FY 1999 and FY 2000, typically we anticipate one month of ship time in the winter/spring and one month in the summer. COP is also working on having a fall cruise in 1999. Joint work with other research institutions on their vessels is a possibility. COP recognizes that resources are limited; and therefore encourages potential investigators to consider leveraging their proposals with support from other sources, although there are no matching requirements. Investigators interested in the Bering Sea may also consider becoming no-cost

collaborators; ship time and modest travel support would be available.

If an application for a financial assistance award is selected for funding, COP has no obligation to provide any additional prospective funding in connection with that award in subsequent years. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce. Publication of this notice does not obligate Commerce to any specific award or to obligate any part of the entire amount of funds available.

(e) Matching Requirements: None

(f) Type of Funding Instrument: Project Grants

(g) Eligibility Criteria: Opportunity is extended to academic, private, and federal researchers. Phase II will be followed by two years of synthesis. All prospective investigators for Phase II, including those currently funded under SEBSCC who propose to continue, will compete on an equal basis for support.

(h) Award Period: Multi-year funding will be funded incrementally on an annual basis. Therefore, each annual award shall require a Statement of Work that is clearly severable and can be easily separated into annual increments of meaningful work which represent solid accomplishments if prospective funding is not made available.

(i) Indirect Costs: If Indirect costs are proposed, the following statement applies: The total dollar amount of the indirect costs proposed in an application under any Announcement of Opportunity must not exceed the indirect cost rate negotiated and approved by a cognizant Federal agency prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less.

(j) Application Forms and Kit: When applying for financial assistance under this announcement, applicants will be able to obtain a copy of the Federal Register Notice and a standard NOAA Application Kit from the COP home page on the following World Wide Web address: http://www.cop.noaa.gov/cop-home.html. If you are unable to access this information, you may also call the Coastal Ocean Program (extension 116) at the address listed above to leave a mail request. The federal register notice may be also be accessed at the following Wide Web address: http://www.access.gpo.gov/su-docs/aces/aces140.html.

At time of submission, the applicant shall follow the guidelines presented in the funding announcement. Applications not adhering to those stated guidelines may be returned to the applicant without further review.

(k) Project Funding Priorities: Priority consideration will be given to proposals that promote balanced coverage of the overall SEBSCC science goals, provide a programmatically balanced approach to Phase II goals, and avoid duplication of completed or ongoing work.

(l) Evaluation Criteria: The proposal selection criteria and weights are: (i.) scientific rationale, quality, and approach—50%; (ii.) applicability to Phase II objectives—30%; (iii) qualifications of the investigators—10%; and (iv.). reasonableness of the budget—10%. Successful PIs may be asked to make minor revisions in their proposals to fit into an overall program structure.

(m) Selection Procedures: The proposal review process for SEBSCC Phase II will be coordinated by the Project Management Team and the COP Office. Proposals received after the required thirty days for publication deadline, or proposals that deviate from the prescribed format, will be returned to the sender un-reviewed. Individual proposals will be mailed to at least three (3) reviewers with expertise in the proposal subject area. The entire set of proposals will also be read by members of SEBSCC's Technical Advisory Committee. All proposals submitted will be evaluated in accordance with the assigned weights of evaluation criteria stated above.

A panel, composed of the Technical Advisory Committee and the Project Management Team (also a mix of Federal and non-federal members), will rank all proposals based on mail and panel evaluations. The NOAA SEBSCC Project Coordinator will make recommendations for funding based on the panel rankings and the project funding priorities discussed in section (k). Selections will be announced early in FY1999.

(n) Other Requirements: See initial COP Notice—63 FR44237, dated August 18, 1998.

(o) 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 Paperwork Reduction Act, unless that collection displays a current valid Office of Management and Budget (OMB) control number. This notice involves collections of information subject to the requirements of the Paperwork Reduction Act. The requirements have been approved by OMB under control numbers 0348–0043, 0348–0044, 0348–0040 and 0348–0046.

Dated: October 6, 1998.

Captain Evelyn J. Fields,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Managment.

[FR Doc. 98–27258 Filed 10–8–98; 8:45 am]

BILLING CODE 3510–JS–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100298A]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet during November 1–6, 1998. The Council meeting will begin on Tuesday, November 3, at 8 a.m. The Council will reconvene Wednesday through Friday at 8 a.m. in open session, except on Thursday, the Council will begin with a closed session to discuss litigation and personnel matters from 8:00 a.m. to 9:00 a.m. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Doubletree Hotel - Columbia River, 1401 North Hayden Island Drive, Portland, OR 97217; telephone: (503) 283–2111.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order

1. Opening Remarks, Introductions, Roll Call

2. Approve Agenda

3. Approve September 1998 Meeting Minutes

B. Groundfish Management

1. Final Harvest Levels and Other Specifications for 1999, Except Lingcod and Bocaccio

2. Status of Federal Regulations and Other NMFS Activities

3. Status of Review of Trawl Capacity Reduction Program (Buyback)

4. Management Measures for 1999, Including Harvest Guidelines for Lingcod and Bocaccio
5. Status of Fisheries in 1998 and Inseason Adjustments
6. Landing of Fish in Excess of Cumulative Limits (Overages)
7. Exempted Fishing Permits for Depth-Specific Sampling
8. Estimation of Total Catch and Discard
9. Review of Stock Assessment Process in 1998
10. Direction to Ad-Hoc Allocation Committee Concerning Management Beyond 1999
11. Direction to Legal Gear Committee(s)
C. Salmon Management
1. Sequence of Events and Status of Fisheries in 1998
2. Final Risk Assessment for Oregon Coastal Natural Coho
3. Updates on Activities to Restore Natural Stocks
4. Potential Revisions to Methodologies
5. Experimental Fishery South of Pt. Sur in 1999
6. Draft Plan Amendments, Including Essential Fish Habitat
D. Habitat Issues
E. Pacific Halibut Management
1. Summary of 1998 Fisheries
2. Changes to the Catch Sharing Plan and Regulations for 1999
F. Coastal Pelagic Species Management - Exempted Fishing Permit to Harvest Anchovy in Closed Area
G. Highly Migratory Species (HMS) Management - Alternatives for Coordinated Management in the Pacific
H. Administrative and Other Matters
1. Report of the Budget Committee
2. Status of Legislation
3. Appointments to Advisory Entities for 1999–2000
4. Research and Data Needs and Economic Data Plan
5. March 1999 Agenda

Advisory Meetings

The Groundfish Management Team will convene on Sunday, November 1, at 3 p.m., and on Monday, November 2 at 8 a.m., and will continue to meet throughout the week as necessary to address groundfish management items on the Council agenda.

The Habitat Steering Group meets at 10 a.m. on Monday, November 2, to address issues and actions affecting habitat of fish species managed by the Council.

The Scientific and Statistical Committee (SSC) will convene on Monday, November 2, at 8 a.m. and on Tuesday, November 3, at 8 a.m. to address scientific issues on the Council agenda.

The Groundfish Advisory Subpanel will convene on Monday, November 2, at 1 p.m., on Tuesday, November 3, at 8 a.m., and on Wednesday, November 4, at 8 a.m., and will meet Thursday if necessary to address groundfish management items on the Council agenda.

The Salmon Technical Team will convene on Monday, November 2, at 1 p.m., and on Tuesday, November 3, at 8 a.m. to address salmon management items on the Council agenda.

The Salmon Advisory Subpanel will convene on Monday, November 2, at 1 p.m., and on Tuesday, November 3, at 8 a.m. to address salmon management items on the Council agenda.

The Budget Committee meets on Monday, November 2, at 1 p.m., to review the status of the 1998 Council budget and develop a 1999 budget.

The HMS Policy Committee will meet on Monday, November 2, at 3 p.m. to discuss coordinated management in the U.S. exclusive economic zone (EEZ) of the Pacific and other timely HMS issues.

The SSC Salmon Subcommittee meets at 7 p.m. on Monday, November 2, to review potential changes to methodologies.

The Enforcement Consultants meet at 7 p.m. on Tuesday, November 3, to address enforcement issues relating to Council agenda items.

There will be a salmon plan amendment briefing on Monday, November 2, at 2 p.m.

There will be a groundfish stock assessment process discussion on Monday November 2, at 7 p.m.

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

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John S. Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: October 5, 1998.

Gary C. Matlock,

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

[FR Doc. 98–27238 Filed 10–8–96; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Fiji

October 2, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The import restraint limit for textile products, produced or manufactured in Fiji and exported during the period January 1, 1999 through December 31, 1999 is based on a limit notified to the Textiles Monitoring Body pursuant to the Uruguay Round Agreement on Textiles and Clothing (ATC).

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limit for the 1999 period. The sublimit for Categories 338–S/339–S/638–S/639–S is being reduced for carryforward applied to the 1998 sublimit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999

CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 2, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and the Uruguay Round Agreement on Textiles and Clothing (ATC), you are directed to prohibit, effective on January 1, 1999, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 338/339/638/639, produced or manufactured in Fiji and exported during the twelve-month period beginning on January 1, 1999 and extending through December 31, 1999, in excess of 1,401,837 dozen of which not more than 1,104,203 dozen shall be in Categories 338–S/339–S/638–S/639–S [1].

The limit set forth above is subject to adjustment pursuant to the provisions of the ATC and administrative arrangements notified to the Textiles Monitoring Body.

Products in the above categories exported during 1998 shall be charged to the applicable category limit for that year (see directive dated November 12, 1997) to the extent of any unfilled balance. In the event the limit established for that period has been exhausted by previous entries, such products shall be charged to the limit set forth in this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–27197 Filed 10–8–98; 8:45 am]

BILLING CODE 3510–DR–F

[1] Category 338–S: only HTS numbers 6103.22.0050, 6105.10.0010, 6105.10.0030, 6105.90.8010, 6109.10.0027, 6110.20.1025, 6110.20.2040, 6110.20.2065, 6110.90.9068, 6112.11.0030 and 6114.20.0005; Category 339–S: only HTS numbers 6104.22.0060, 6104.29.2049, 6106.10.0010, 6106.10.0030, 6106.90.2510, 6106.90.3010, 6109.10.0070, 6110.20.1030, 6110.20.2045, 6110.20.2075, 6110.90.9070, 6112.11.0040, 6114.20.0010 and 6117.90.9020; Category 638–S: all HTS numbers except 6109.90.1007, 6109.90.1009, 6109.90.1013 and 6109.90.1025; Category 639–S: all HTS numbers except 6109.90.1050, 6109.90.1060, 6109.90.1065 and 6109.90.1070.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

October 5, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: October 13, 1998.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being increased, variously, for swing, carryover and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 65246, published on December 11, 1997.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the period January 1, 1998 through December 31, 1998.

Effective on October 13, 1998, you are directed to increase the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit [1]
Sublevels in Group II	
351/651	280,403 dozen.
435	59,964 dozen.
442	23,013 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 98–27199 Filed 10–8–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Export Visa Stamp for Certain Textile Products Produced or Manufactured in Hungary

October 2, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of a new export visa stamp.

EFFECTIVE DATE: November 1, 1998.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Beginning on November 1, 1998, the Government of the Republic of Hungary will start issuing a new export visa stamp for shipments of textile products, produced or manufactured in Hungary and exported from Hungary on or after November 1, 1998 to reflect the name change of "Ministry of Industry, Trade and Tourism" to "Ministry of Economic Affairs." There will be a one-month grace period from November 1, 1998 through November 30, 1998, during which products exported from Hungary may be accompanied by either the old

or new export visa stamp. Products exported from Hungary on or after December 1, 1998 must be accompanied by the new export visa stamp.

See 49 FR 8659, published on March 8, 1984.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 2, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 5, 1984, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directed you to prohibit entry of certain textile products, produced or manufactured in Hungary for which the Government of the Republic of Hungary has not issued an appropriate export visa.

Beginning on November 1, 1998, you are directed to amend further the directive dated March 5, 1984 to provide for the use of a new export visa stamp issued by the Government of the Republic of Hungary to accompany shipments of textile products, produced or manufactured in Hungary and exported from Hungary on or after November 1, 1998. This new visa stamp reflects the name change of "Ministry of Industry, Trade and Tourism" to "Ministry of Economic Affairs."

Textile products exported from Hungary during the period November 1, 1998 through November 30, 1998 may be accompanied by either the old or new export visa stamp. Products exported from Hungary on or after December 1, 1998 must be accompanied by the new export visa stamp.

A facsimile of the new visa stamp is enclosed with this letter.

Shipments entered or withdrawn from warehouse according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

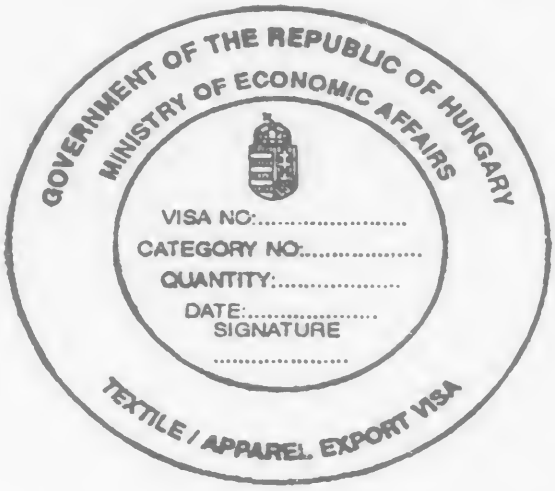
The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

BILLING CODE 3510-DR-F



Export Visa Stamp for the Republic of Hungary

[FR Doc. 98-27198 Filed 10-8-98; 8:45 am]

BILLING CODE 3510-DR-C

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Defense Intelligence Agency Science and Technology Advisory Board

ACTION: Notice.

SUMMARY: The Defense Intelligence Agency Science and Technology Advisory Board (D-STAB) has been renewed in consonance with the public interest, and in accordance with the provisions of Public Law 92-463, the "Federal Advisory Committee Act.".

The D-STAB provides scientific and technical expertise and advice to the Secretary of Defense and the Director, Defense Intelligence Agency on current and long-term operational and intelligence matters covering the total range of the mission of the Defense Intelligence Agency.

The Committee will continue to be composed of 30 to 36 members form government agencies, business and industrial corporations, private consultants, and the academic community. Efforts will be made to ensure that there is a fairly balanced membership in terms of the functions to be performed and the interest groups represented.

For further information regarding the D-STAB, contact: Major Don Culp, Defense Intelligence Agency, telephone: 202-231-4930.

Dated: October 5, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98-27089 Filed 10-8-98; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of the Joint Advisory Committee on Nuclear Weapons Surety

ACTION: Notice.

SUMMARY: The Joint Advisory Committee on Nuclear Weapons Surety (JACNWS) has been renewed in consonance with the public interest, and in accordance with the provisions of Public Law 92-463, the "Federal Advisory Committee Act."

The JACNWS provides advice and recommendations to the Secretary of Defense and the Secretary of Energy on nuclear weapons systems surety matters. The committee undertakes studies and prepares reports on national policies and procedures to ensure the safe handling, stockpiling, maintenance, disposition and risk reduction of nuclear weapons.

The Committee will continue to be composed of four to seven members, both government and non-government individuals, who are acclaimed experts in nuclear weapons surety measures. Efforts will be made to ensure that there is a fairly balanced membership in terms of the functions to be performed and the interest groups represented.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Daitch, Defense Special Weapons Agency, telephone: 703–325–0581.

Dated: October 2, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–27086 Filed 10–8–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Information Technology Advisory Committee

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the President's Information Technology Advisory Committee (formerly the Presidential Advisory Committee on High Performance Computing and Communications, Information Technology, and the Next Generation Internet). The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act, (Pub. L. 92–463).

DATES: November 4, 1998.

ADDRESSES: NSF Board Room (Room 1235), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Proposed Schedule and Agenda: The President's Information Technology Advisory Committee will meet in open session from approximately 8:30 a.m. to 11:30 a.m. and 12:30 p.m. to 4:00 p.m. on November 4, 1998. This meeting will include discussions on the interim report to the President on information technology, the final report to the President, and a report from PITAC panels on: socio-economic and workforce issues; high-end computing; software; scalable infrastructure; modes of research and funding; and management. Time will also be allocated during the meeting for public comments by individuals and organizations.

FOR FURTHER INFORMATION CONTACT:

The National Coordination Office of Computing, Information, and Communications provides information about this Committee on its web sit at: http://www.ccic.gov; it can also be reached at (703) 306–4722. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: October 5, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–27088 Filed 10–8–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Strategic Environmental Research and Development Program, Scientific Advisory Board

ACTION: Notice.

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

Date of Meeting: October 29, 1998 from 0900 to 1700.

Place: Arlington Hilton Hotel & Towers, 950 North Stafford Street, Mezzanine, Arlington, VA.

Matters to be Considered: Research and Development proposals and continuing projects requesting Strategic Environmental Research and Development Program funds in excess of $1M will be reviewed.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Scientific Advisory Board at the time and in the manner permitted by the Board.

For Further Information Contact: Mrs. Amy Kelly, SERDP Program Office, 901 North Stuart Street, Suite 303, Arlington, VA or by telephone at (703) 696–2124.

Dated: October 2, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 98–27084 Filed 10–8–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on November 3, 1998; November 10, 1998; November 17, 1998; and November 24, 1998, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: October 2, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–27087 Filed 10–8–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 204. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect.

Bulletin Number 204 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: October 1, 1998.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 203. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: October 5, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000-04-M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA:				
ANCHORAGE [INCL NAV RES]				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
BARROW	110	70	180	06/01/98
BETHEL	103	65	168	03/01/98
CORDOVA	85	62	147	03/01/98
CRAIG				
05/01 -- 08/31	95	66	161	05/01/97
09/01 -- 04/30	79	64	143	05/01/97
DENALI NATIONAL PARK				
06/01 -- 08/31	115	52	167	03/01/98
09/01 -- 05/31	90	50	140	03/01/98
DILLINGHAM	95	59	154	08/01/98
DUTCH HARBOR-UNALASKA	110	69	179	03/01/98
EARECKSON AIR STATION	72	55	127	03/01/98
EIELSON AFB				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
ELMENDORF AFB				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
FAIRBANKS				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
FT. RICHARDSON				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
FT. WAINWRIGHT				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
GLENNALLEN	90	52	142	10/01/98
HEALY				
06/01 -- 08/31	115	52	167	03/01/98
09/01 -- 05/31	90	50	140	03/01/98
HOMER				
05/01 -- 09/30	116	66	182	03/01/98
10/01 -- 04/30	87	64	151	03/01/98
JUNEAU	89	72	161	03/01/98
KENAI-SOLDOTNA				
04/01 -- 09/30	109	61	170	03/01/98
10/01 -- 03/31	74	59	133	03/01/98

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KENNICOTT	149	68	217	10/01/98
KETCHIKAN				
05/01 -- 09/30	100	74	174	03/01/98
10/01 -- 04/30	85	73	158	03/01/98
KLAWOCK				
05/01 -- 08/31	95	66	161	05/01/97
09/01 -- 04/30	79	64	143	05/01/97
KODIAK				
04/16 -- 09/30	98	69	167	03/01/98
10/01 -- 04/15	88	68	156	03/01/98
KOTZEBUE				
05/16 -- 09/15	101	81	182	04/01/97
09/16 -- 05/15	90	80	170	04/01/97
KULIS AGS				
05/01 -- 09/30	151	62	213	06/01/98
10/01 -- 04/30	86	56	142	03/01/98
MCCARTHY	149	68	217	10/01/98
MURPHY DOME				
05/15 -- 09/15	121	60	181	03/01/98
09/16 -- 05/14	75	56	131	03/01/98
NOME	83	63	146	03/01/98
PETERSBURG	76	62	138	03/01/98
SEWARD				
05/01 -- 09/15	114	62	176	03/01/98
09/16 -- 04/30	78	59	137	03/01/98
SITKA-MT. EDGECOMBE				
04/01 -- 09/04	101	60	161	03/01/98
09/05 -- 03/31	83	59	142	03/01/98
SKAGWAY				
05/01 -- 09/30	100	74	174	03/01/98
10/01 -- 04/30	85	73	158	03/01/98
SPRUCE CAPE				
04/16 -- 09/30	98	69	167	03/01/98
10/01 -- 04/15	88	68	156	03/01/98
TANANA	83	63	146	03/01/98
UMIAT	125	107	232	08/01/97
VALDEZ				
05/15 -- 09/15	105	65	170	03/01/98
09/16 -- 05/14	84	62	146	03/01/98
WASILLA	79	72	151	03/01/98
WRANGELL				
05/01 -- 09/30	100	74	174	03/01/98
10/01 -- 04/30	85	73	158	03/01/98

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
[OTHER]	72	55	127	03/01/98
AMERICAN SAMOA:				
AMERICAN SAMOA	73	53	126	03/01/97
GUAM:				
GUAM (INCL ALL MIL INSTAL)	150	79	229	05/01/98
HAWAII:				
CAMP H M SMITH	110	61	171	07/01/97
EASTPAC NAVAL COMP TELE AREA	110	61	171	07/01/97
FT. DERUSSEY	110	61	171	07/01/97
FT. SHAFTER	110	61	171	07/01/97
HICKAM AFB	110	61	171	07/01/97
HONOLULU NAVAL & MC RES CTR	110	61	171	07/01/97
ISLE OF HAWAII: HILO	80	52	132	06/01/98
ISLE OF HAWAII: OTHER	100	54	154	06/01/98
ISLE OF KAUAI				
05/01 -- 11/30	115	62	177	06/01/98
12/01 -- 04/30	136	64	200	06/01/98
ISLE OF KURE	60	41	101	07/01/97
ISLE OF MAUI	112	64	176	06/01/98
ISLE OF OAHU	110	61	171	07/01/97
KANEOHE BAY MC BASE	110	61	171	07/01/97
KEKAHA PACIFIC MISSILE RANGE FAC				
05/01 -- 11/30	115	62	177	06/01/98
12/01 -- 04/30	136	64	200	06/01/98
KILAUEA MILITARY CAMP	80	52	132	06/01/98
LULUALEI NAVAL MAGAZINE	110	61	171	07/01/97
NAS BARBERS POINT	110	61	171	07/01/97
PEARL HARBOR [INCL ALL MILITARY]	110	61	171	07/01/97
SCHOFIELD BARRACKS	110	61	171	07/01/97
WHEELER ARMY AIRFIELD	110	61	171	07/01/97
[OTHER]	79	62	141	06/01/93
JOHNSTON ATOLL:				
JOHNSTON ATOLL	13	9	22	07/01/97
MIDWAY ISLANDS:				
MIDWAY ISLANDS [INCL ALL MIL]	60	41	101	07/01/97
NORTHERN MARIANA ISLANDS:				
ROTA	105	71	176	05/01/97
SAIPAN	170	78	248	05/01/97
[OTHER]	61	53	114	05/01/97

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
PUERTO RICO:						
BAYAMON						
04/16 -- 11/14	117		67		184	09/01/98
11/15 -- 04/15	148		70		218	09/01/98
CAROLINA						
04/16 -- 11/14	117		67		184	09/01/98
11/15 -- 04/15	148		70		218	09/01/98
FAJARDO [INCL CEIBA, LUQUILLO & HUMACAO]	82		60		142	03/01/98
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]						
04/16 -- 11/14	117		67		184	09/01/98
11/15 -- 04/15	148		70		218	09/01/98
LUIS MUNOZ MARIN IAP AGS						
04/16 -- 11/14	117		67		184	09/01/98
11/15 -- 04/15	148		70		218	09/01/98
MAYAGUEZ	94		60		154	06/01/98
PONCE	101		67		168	09/01/98
ROOSEVELT ROADS & NAV STA	82		60		142	03/01/98
SABANA SECA [INCL ALL MILITARY]						
04/16 -- 11/14	117		67		184	09/01/98
11/15 -- 04/15	148		70		218	09/01/98
SAN JUAN & NAV RES STA						
04/16 -- 11/14	117		67		184	09/01/98
11/15 -- 04/15	148		70		218	09/01/98
[OTHER]	66		57		123	09/01/98
VIRGIN ISLANDS (U.S.):						
ST. CROIX						
04/15 -- 12/14	107		75		182	08/01/98
12/15 -- 04/14	131		78		209	08/01/98
ST. JOHN						
04/15 -- 12/14	286		89		375	08/01/98
12/15 -- 04/14	413		102		515	08/01/98
ST. THOMAS						
04/15 -- 12/14	171		75		246	08/01/98
12/15 -- 04/14	285		87		372	08/01/98
WAKE ISLAND:						
WAKE ISLAND	60		32		92	09/01/98

[FR Doc. 98–27090 Filed 10–8–98; 8:45 am]
BILLING CODE 5000–04–C

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Court of Appeals for the Armed Forces Proposed Rule Change

ACTION: Notice of proposed change to the rules of practice and procedure of the United States Court of Appeals for the Armed Forces.

SUMMARY: This notice announces the following proposed new Rule 30A of the Rules of Practice and Procedure, United States Court of Appeals for the Armed Forces for public notice and comment:

Proposed New Rule 30a—Fact Finding

(a) General. The court will normally not consider any facts outside of the record established at the trial and the Court of Criminal Appeals.

(b) Judicial notice. In an appropriate case, the Court may take judicial notice of an indisputable adjudicative fact.

(c) Remand for fact finding. If an issue concerning an unresolved material fact may affect the Court's resolution of the case, a party may request, or the Court may *sua sponte* order, a remand of the case or the record to the Court of Criminal Appeals. If the record is remanded, the court retains jurisdiction over the case. If the case is remanded, the Court does not retain jurisdiction, and a new petition for grant of review or certificate for review will be necessary if a party seeks review of the proceedings conducted on remand.

(d) Stipulation by the parties. If an issue concerning an unresolved material fact may affect the Court's resolution of the case, the parties may stipulate to a factual matter, subject to the court's approval.

(e) Other means. Where it is impracticable to remand a case to the Court of Criminal Appeals, the Court may order other means to develop relevant facts, including the appointment of a special master to hold hearings, if necessary, and to make such recommendations to the Court as are deemed appropriate.

DATES: Comments on the proposed change must be received by December 8, 1998.

ADDRESSES: Forward written comments to Thomas F. Granahan, Clerk of the Court, United States Court of Appeals for the Armed Forces, 450 E Street, Northwest, Washington, DC 20442–0001.

FOR FURTHER INFORMATION CONTACT: Thomas F. Granahan, Clerk of Court, telephone (202) 761–1448(x600).

SUPPLEMENTARY INFORMATION: The Rules Advisory Committee Comment on the proposed new Rule 30A is included as an attachment to this notice.

Rules Advisory Committee Comment on Proposed Rule 30A

Proposed Rule 30A codifies the Court's practice concerning additional fact finding, and provides a counterpart to Federal Rule of Appellate Procedure 48, which concerns appointment of special masters. While requests to establish additional facts are disfavored, the Court has on occasion accepted affidavits, appointed special masters, accepted stipulations of fact, and directed that evidentiary hearings be held. Subsection (b) codifies the Court's discussion of judicial notice in *United States* v. *Williams*, 17 MJ 207 (CMA 1984). Subsection (c) recognizes that the Court may sometimes remand a case for the lower court's reconsideration in light of a contested issue of fact's determination, or it may sometimes choose to remand for the limited purpose of determining a contested fact while retaining jurisdiction over the case. Subsection (c) enables the Court to decide on a case-by-case basis whether the lower court will exercise complete jurisdiction upon remand. *Cf.* D.C. Cir. R. 41(b). The Committee envisions that stipulations made under subsection (d) will be presented to the Court via a motion to attach a stipulation to the record made pursuant to Rule 30. Subsection (e) recognizes that, where necessary, the Court may order alternative means of determining facts, including the appointment of special masters.

Dated: October 2, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–27085 Filed 10–8–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) Collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

DATES: Comments must be filed on or before November 9, 1998. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Herbert Miller, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Miller may be telephoned at (202) 426-1103, FAX (202) 426–1081, or e-mail at hmiller@eia.doe.gov.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. RW–859, "Nuclear Fuel Data Form"
2. Office of Civilian Radioactive Waste Management, OMB No. 1901–0287, Revision of a Currently Approved Collection; Mandatory.
3. Form RW–859 collects data to be used by the Office of Civilian Radioactive Waste to define, develop, and operate its storage that requires

information on spent nuclear fuel inventories, generation rates, and storage capacities. Respondents are all owners of nuclear power plants and owners of spent nuclear fuel.

4. Business or other for-profit.

5. 5,074 hours (59 respondents × 2.15 responses per year × 40 hours).

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., October 5, 1998.

Lynda T. Carlson,

Director, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 98–27227 Filed 10–8–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–23–000]

ANR Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, ANR Storage Company (ANRS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 2, 1998.

ANRS states that the purpose of the filing is to incorporate standards relating to intra-day nominations adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587–H, issued July 15, 1998, at Docket No. RM96–1–008.

ANRS states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27149 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–15–000]

Black Marlin Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Black Marlin Pipeline Company (Black Marlin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of November 2, 1998:

Second Revised Sheet No. 111
Fourth Revised Sheet No. 112
Second Revised Sheet No. 112A
Second Revised Sheet No. 113
Second Revised Sheet No. 135
Fourth Revised Sheet No. 136
Second Revised Sheet No. 136A
Second Revised Sheet No. 137
Fourth Revised Sheet No. 201A
Second Revised Sheet No. 211
Original Sheet No. 211A
Original Sheet No. 211B
Original Sheet No. 211C
Original Sheet No. 211D
Third Revised Sheet No. 212

Black Marlin states that the instant filing is made in compliance with Order No. 587–H to implement the provisions of Order Nos. 587–G and 587–H regarding the intraday nomination and scheduling provisions promulgated by the Gas Industry Standards Board (GISB), including the bumping of scheduled interruptible service by firm shippers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27144 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–27–000]

Blue Lake Gas Storage Company; Notice of Tariff Filing

October 5, 1998.

Take notice that on October 1, 1998, Blue Lake Gas Storage Company (Blue Lake) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 2, 1998.

Blue Lake states that the purpose of the filing is to incorporate standards relating to intra-day nominations adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587–H, issued July 15, 1998, at Docket No. RM96–1–008.

Blue Lake states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27153 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4095–000]

Carr Street Generating Station, L.P.; Notice of Issuance of Order

October 5, 1998.

Carr Street Generating Station, L.P. (Carr Street) is an affiliate of Baltimore Gas & Electric Company. Carr Street filed an application requesting that the Commission authorize it to engage in wholesale power sales at market-based rates, and for certain waivers and authorizations. In particular, Carr Street requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Carr Street. On October 1, 1998, the Commission issued an Order Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 1, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Carr Street should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Carr Street is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Carr Street, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Carr Street's issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 2, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 98–27169 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket N9. RP99–6–000]

Chandeleur Pipe Line Company; Notice of Proposed Change in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of November 2, 1998:

Second Revised Sheet No. 19A
Third Revised Sheet No. 65
Original Sheet No. 65A
Third Revised Sheet No. 66
Original Sheet No. 66A
Fourth Revised Sheet No. 67
Original Sheet No. 67A
Third Revised Sheet No. 68
Fourth Revised Sheet No. 69

Chandeleur states that the filing is being made in compliance with the Commission's Order No. 597–H issued July 15, 1998 in the above-referenced docket.

Chandeleur state that it is serving copies of the filing to its customers, State Commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27135 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–24–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

October 5, 1998.

Take notice that on October 1, 1998, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Ninth Revised Sheet No. 283 and Tenth Revised Sheet No. 284 to be effective November 3, 1998.

CIG states that the purpose of this filing is to change the flowing-gas scheduling priority of transportation agreements which are related to Rate Schedule PAL–1. Initially, CIG has proposed to apply the same scheduling priority to park/loan associated transportation as is applied to imbalance and overrun transportation. CIG states it has been pointed out by several shippers, this scheduling priority application inadvertently degrades the true scheduling priority otherwise applied to such transportation agreements.

To rectify this problem CIG proposes to apply the regular scheduling priority (*i.e.*, primary, secondary, interruptible, etc.) to transportation contracts regardless of their association with park/loan transactions.

CIG states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27150 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–12–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes In FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective November 1, 1998:

Twenty-ninth Revised Sheet No. 25
Twenty-ninth Revised Sheet No. 26
Twenty-ninth Revised Sheet No. 27
Twenty-ninth Revised Sheet No. 28

Columbia states that this periodic filing is being submitted in accordance with Section 36.2 of the General Terms and Conditions (GTC) of its Tariff. GTC Section 36, "Transportation Costs Rate Adjustment (TCRA)", enables Columbia to adjust its current TCRA rate prospectively on a periodic and annual basis to take into account prospective changes in Account No. 858 costs. As explained below, in this filing Columbia proposes to adjust its Current Operational TCRA Rate, as defined in GTC Section 36.4 to include the payments associated with the lease agreement between Columbia and Texas Eastern Transmission Corporation (TETCO). In addition, Columbia is including the costs associated with its continued use of 20,000 Dth/d of firm winter-only transportation on Algonquin.

Columbia states further that copies of this filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27141 Filed 10–8–98; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–432–000]

Crossroads Pipeline Company; Notice of Compliance Filing

October 5, 1998.

Take notice that on September 30, 1998, Crossroads Pipeline Company (Crossroads) tendered for filing Cost and Revenue Study and supporting testimony. Crossroads states that the Cost and Revenue Study is being submitted in compliance with orders issued by the Commission in Docket No. CP94–342–000, et al. on April 21, 1995, and October 30, 1995.

Crossroads states that the Cost and Revenue Study is based on actual book expenses and revenue for the twelve months ended June 30, 1998. Crossroads further states that in this filing it is proposing no change in its currently effective rates.

Crossroads states that the Cost and Revenue Study demonstrates that its actual revenues for the twelve months ended June 30, 1998, did not exceed its cost of service. Crossroads further states that the Cost and Revenue Study demonstrates that Crossroads has not been over-recovering its cost of service.

Crossroads states that copies of its filing has been served on its customers, the Indiana Utility Regulatory Commission, and all parties listed on the Official Service List in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 13, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27129 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–22–000]

Dynegy Midstream Pipeline, Inc.; Notice of Tariff Filing

October 5, 1998.

Take notice that on October 1, 1998, Dynegy Midstream Pipeline, Inc. (DMP), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of November 1, 1998.

DMP states that it is submitting these revised tariff sheets to incorporate the Gas Industry Standards Board (GISB) Intra-day standards adopted by Order No. 587–H in Docket No. RM96–1–008. DMP proposes a November 1, 1998 effective date for these sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27165 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4109–000]

El Dorado Energy, LLC; Notice of Issuance of Order

October 5, 1998.

El Dorado Energy, LLC (EL Dorado) is a limited liability company created to develop, own and operate a natural gas fired generating plant in Boulder City, Nevada. El Dorado filed an application requesting that the Commission authorize it to engage in wholesale power sales at market-based rates. On October 1, 1998, the Commission issued an Order Conditionally Accepting For Filing Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 1, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (D), (E), and (G):

(D) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by El Dorado 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.

(E) Absent a request to be heard within the period set forth in Ordering Paragraph (D) above, El Dorado is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of El Dorado, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of El Dorado's issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 2, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 98–27168 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–41–000]

El Paso Natural Gas Company; Notice of Tariff Filing

October 5, 1998.

Take notice that on October 1, 1998, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, with an effective date of November 1, 1998:

Fourth Revised Sheet No. 202A
Fifth Revised Sheet No. 202B
Third Revised Sheet No. 210.01
Third Revised Sheet No. 211
First Revised Sheet No. 211A

El Paso states that the filing is being made in compliance with Order No. 587–H issued July 15, 1998 at Docket No. RM96–1–008.

El Paso states that the tariff sheets are being filed to implement the intra-day nominations regulations adopted by the Commission in Order No. 587–H.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27164 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–14–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Florida Gas Transmission Company (FGT), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of February 1, 1999.

Second Revised Sheet No. 41
First Revised Sheet No. 47B
Second Revised Sheet No. 48
Seventh Revised Sheet No. 102B
First Revised Sheet No. 115A
Sixth Revised Sheet No. 116
Sixth Revised Sheet No. 117
Original Sheet No. 117.01
Sixth Revised Sheet No. 117A
Second Revised Sheet No. 118
First Revised Sheet No. 118A
Fourth Revised Sheet No. 120A
Fifth Revised Sheet No. 121
Second Revised Sheet No. 163
Second Revised Sheet No. 163G

FGT states that the instant filing is to make the changes to FGT's Tariff necessary to implement the GISB Intraday Standards and Interruptible Bumping as provided for in Commission Order Nos. 587–G and 587–H.

FGT states that, in a concurrent filing, FGT is requesting waiver of the November 2, 1998 implementation date because of delays which have been encountered in developing the new computer systems necessary to comply with the provisions. Consequently, FGT is proposing a February 1, 1999 effective date for the tariff changes proposed in the instant filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27143 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–5–000]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix B to the filing, with an effective date of November 2, 1998.

GBGP states that the tariff sheets are being filed in compliance with Order No. 587–H issued by the Commission on July 15, 1998, in Docket No. RM96–1–008. GBGP states the purpose of the filing is to incorporate into the tariff the new nomination standards as approved by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27134 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–431–000]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on September 30, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Sheet No. 10A, Fourth Revised Sheet No. 27, and Fifth Revised Sheet No. 50C, proposed to become effective November 2, 1998.

Great Lakes states that the tariff sheets are being filed to comply with Commission's Order No. 587–H issued on July 15, 1998, in Docket No. RM96–1–008. 84 FERC ¶ 61,031 (1998). In Order No. 587–H, the Commission adopted the standards relating to intra-day nominations promulgated by the Gas Industry Standards Board and also established an implementation date of November 2, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rule and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27128 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–9–000]

Gulf States Transmission Corporation; Notice of Proposed Change in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Gulf States Transmission Corporation (Gulf States), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Fourth Revised Sheet No. 27, First Revised Sheet No. 51B, Second Revised Sheet No. 52 and Third Revised Sheet No. 58G, with an effective date of November 2, 1998.

Gulf States states that the tendered sheets are filed in compliance with the Order No. 587–H, and implements the intra-day nomination standards and regulations adopted in Order Nos. 587–G and 587–H.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27138 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–4222–000]

Lake Benton Power Partners II, LLC; Notice of Issuance of Order

October 5, 1998.

Lake Benton Power Partners II, LLC (LBPP), is a limited liability company created to develop and own a wind energy facility. LBPP filed an application requesting that the Commission accept a power purchase

agreement for selling wholesale power at market-based rates to Northern States Power Company, and for certain authorizations and waivers. In particular, LBPP requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by LBPP. On October 2, 1998, the Commission issued an Order Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's October 2, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by LBPP should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within period set forth in Ordering Paragraph (E) above, LBPP is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of LBPP, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public or private interests will be adversely affected by continued Commission approval of LBPP's issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 2, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 98–27170 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–3–000]

Mississippi Canyon Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Mississippi Canyon Gas Pipeline, LLC (Mississippi Canyon) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix B to the filing, with an effective date of November 2, 1998.

Mississippi Canyon states that the tariff sheets are being filed in compliance with Order No. 587–H issued July 15, 1998, in Docket No. RM96–1–008. Mississippi Canyon states the purpose of the filing is to incorporate into the tariff the new nomination standards as approved by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rule and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27132 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–40–000]

Mojave Pipeline Company; Notice of Tariff Filing

October 5, 1998.

Take notice that on October 1, 1998, Mojave Pipeline Company (Mojave) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1998:

Second Revised Sheet No. 202
Second Revised Sheet No. 203
First Revised Sheet No. 219

Mojave states that the tariff sheets are being filed to implement the intra-day nominations regulations adopted by the Commission in Order No. 587–H.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27163 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–4–000]

Nautilus Pipeline Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Nautilus Pipeline Company, LLC (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix B to the filing, with an effective date of November 2, 1998.

Nautilus states that the filing is being made in compliance with Order No. 587–H issued by the Commission in Docket No. RM96–1–008.

Nautilus states that the purpose of this filing is to incorporate into the tariff the new nomination standards as approved by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections

385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27133 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–31–000]

Northern Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Northern Natural Gas Company (Northern) tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective November 1, 1998:

Fifth Revised Sheet No. 204
Fourth Revised Sheet No. 257
Sixth Revised Sheet No. 258

Northern states that the above-referenced tariff sheets are being filed to revise the tariff sheets filed on May 1, 1998 to reflect the GISB proposed intra-day standards as required to comply with the Final Rule in Order No. 587–H issued on July 15, 1998.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27156 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–36–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1 and Original Volume No. 2, certain revised tariff sheets, with an effective date of October 1, 1998.

Northern states that the filing terminates the current GSR TI commodity surcharge which is designed to recover ten percent of the applicable GSR costs and Reverse Auction costs. The balance in the GSR TI accounts plus subsequent carrying charges will be sufficient to fund future Reverse Auction payments. Therefore, Northern has filed First Revised 16 Revised Sheet No. 52, First Revised 14 Revised Sheet No. 59, First Revised 17 Revised Sheet No. 60 and First Revised 29 Revised Sheet No. 1C.a effective October 1, 1998.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rule and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27160 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–37–000]

Northern Natural Gas Company; Notice of Proposed Changes In FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets:

Fourth Revised Substitute 43 Revised Sheet No. 50
Fourth Revised Substitute 43 Revised Sheet No. 51
Third Revised Substitute 40 Revised Sheet No. 53
Second Revised Sheet No. 200
Second Revised Sheet No. 247
Third Revised Sheet No. 248
Second Revised Sheet No. 249
First Revised Sheet No. 250

Northern states that the filing terminates the current GSR and GSR–RA surcharges. These surcharges were established to recover Northern's gas supply realignment costs and price differentials associated with unassigned Reverse Auction (RA) contracts over a five year period which expires November 1, 1998.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

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 Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public

inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27161 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–25–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective November 2, 1998.

Second Revised Sheet No. 43
Second Revised Sheet No. 53
Third Revised Sheet No. 54
Third Revised Sheet No. 74
Second Revised Sheet No. 84
First Revised Sheet No. 94
Second Revised Sheet No. 109
Fourth Revised Sheet No. 201
Fifth Revised Sheet No. 202
Second Revised Sheet No. 202–A
Third Revised Sheet No. 202–B
Second Revised Sheet No. 202–C
First Revised Sheet No. 202–D
Original Sheet No. 202–E
Sixth Revised Sheet No. 225
Second Revised Sheet No. 225–A
First Revised Sheet No. 225–A.01
Second Revised Sheet No. 225–B
Second Revised Sheet No. 225–C
Original Sheet No. 225–D
Original Sheet No. 225–E
Original Sheet No. 225–F
Original Sheet No. 225–G
Fifth Revised Sheet No. 226
Fourth Revised Sheet No. 228
First Revised Sheet No. 228–A
Original Sheet No. 228–B

Northwest states that the purpose of this filing is to submit tariff sheets, pursuant to Order No. 587–H, which implement standards relating to intra-day nominations promulgated by the Gas Industry Standards Board and which implement the intra-day nomination regulations adopted in Order No. 587–G.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27151 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–26–000]

Northwest Pipeline Corporation; Notice of Petition for Grant of Limited Waiver of Tariff

October 5, 1998.

Take notice that on October 1, 1998, pursuant to Rule 207(a)(5) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(5), Northwest Pipeline Corporation (Northwest) tendered for filing a Petition for Grant of Limited Waiver of Tariff.

Northwest seeks a waiver of the applicable capacity release provisions in Section 22 of its tariff in order to allow IGI Resources, Inc., a wholly-owned subsidiary of Intermountain Industries, Inc., to transfer its Rate Schedule TF–1 firm transportation capacity under an agreement dated July 31, 1991, to its affiliate, Intermountain Gas Company, another wholly-owned subsidiary of Intermountain Industries, Inc.

Northwest states that a copy of this filing has been served upon Northwest's jurisdictional customers and upon affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 13, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27152 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–181–001]

OkTex Pipeline Company; Notice of Filing

October 5, 1998.

Take notice that on September 4, 1998, OkTex Pipeline Company (OkTex), tendered for filing pursuant to Section 4 of the Natural Gas and Act and the applicable provisions of the Commission's Regulations, which OkTex describes as an offer of settlement in this proceeding to become effective October 1, 1998. OkTex states that the proposed settlement would increase revenues from jurisdictional service by $59,458 based on the 12-month period ending December 31, 1997, as adjusted, by increasing the firm transportation rate from $0.6306 per Dth to $0.8537 per Dth and increasing the interruptible transportation rate from $0.0207 per Dth to $0.0281 per Dth. These rates represent a reduction from the rates originally filed for in this docket.

Any person desiring to comment on this filing should file with the Federal Energy Regulatory Commission, Washington, DC 20626, initial comments on or before October 9, 1998 and reply comments on or before October 9, 1998 and reply comments on or before October 13, 1998, in accordance with the Commission's rules and regulations.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–27167 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–7–000]

Paiute Pipeline Company, Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective November 2, 1998:

Third Revised Sheet No. 54
Second Revised Sheet No. 56C
First Revised Sheet No. 61A
Original Sheet No. 61B
Original Sheet No. 61C
Fifth Revised Sheet No. 62
Fourth Revised Sheet No. 63

Paiute indicates that the purpose of the instant filing is (1) to comply with the directives of Order No. 587–H, issued by the Commission on July 15, 1998 in Docket No. RM96–1–008; and (2) to effectuate changes to the General Terms and Conditions of Paiute's tariff which are necessary to implement to Gas Industry Standards Board standards which were adopted by the Commission in Order No. 587–H.

Any person desiring to be heard or to protest said filing should file a motion to intervent or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27136 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–19–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective November 2, 1998:

Fourth Revised Sheet No. 239
Second Revised Sheet No. 239A
Original Sheet No. 239B
Fifth Revised Sheet No. 339

Panhandle states that the purpose of this filing is to comply with Order No. 586–H, Final Rule Adopting Standards for Intra-day Nominations and Order Establishing Implementation Date issued on July 15, 1998 in Docket No. RM96–1–008. The revised tariff sheets included herewith reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations. Specifically, newly adopted Standards 1.2.8, 1.2.9, 1.2.10, 1.2.11, 1.2.12, 1.3.39, 1.3.40, 1.3.41, 1.3.42, 1.3.43 and 1.3.44 are incorporated by reference, as well as modified Standards 1.3.20, 1.3.22 and 1.3.32. In addition, modified Standard 1.3.2 and the deletion of Standards 1.2.7, 1.3.10 and 1.3.12 are reflected in Section 8.2 of the General Terms and Conditions.

Panhandle states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27147 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–167–002]

PG&E Gas Transmission, Northwest Corporation; Notice of Compliance Filing

October 5, 1998.

Take notice that on September 29, 1998, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, the following tariff sheets:

Twenty-fourth Revised Sheet No. 4
Fourth Revised Sheet No. 6B
Second Revised Sheet No. 13A
Original Revised Sheet No. 13B
Eleventh Revised Sheet No. 51
Second Revised Sheet No. 54A
Third Revised Sheet No. 138

The tariff sheets are filed in compliance with the Commission's August 31, 1998 order issued in Docket Nos. CP98–167–000 and 001.[1] PG&E GT–NW requests that the above referenced tariff sheets become effective November 1, 1998.

PG&E GT–NW states that the Commission's order authorized PG&E GT–NW to install and operate additional compression on its system through which PG&E GT–NW will provide additional firm transportation service under its Part 284 blanket certificate. PG&E GT–NW also states that, in addition, the Commission's order approved proposed rates for the expansion facilities that included a temporary Competitive Equalization Surcharge (CES) applicable to new expansion shippers that is equal to the Mitigation Revenue Recovery Surcharge that is currently effective for certain existing shippers. Accordingly, PG&E GT–NW is filing the above referenced tariff sheets to implement the CES as directed by the Commission's order.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 13, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the

[1] 84 FERC ¶ 61,204 (1998).

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 proptestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing area on file with the Commission and are available for public inspection.

David P. Boergers,

Secretary.

[FR Doc. 98–27125 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–8–000]

Sabine Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Sabine Pipe Line Company (Sabine) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of November 2, 1998:

Third Revised Sheet No. 226A
First Revised Sheet No. 226B
Original Sheet No. 226C
Second Revised Sheet No. 230
Second Revised Sheet No. 231
First Revised Sheet No. 231A
Second Revised Sheet No. 232
Fifth Revised Sheet No. 297

Sabine states that the purpose of this filing is to comply with the Commission's order issued July 15, 1998, in Docket No. RM96–1–008.

Sabine states that the instant filing reflects changes to the General Terms and Conditions of its Tariff required to implement standards issued by the Gas Industry Standards Board (GISB) and adopted by the Commission in Order No. 587–H issued July 15, 1998, in Docket No. RM 96–1–008. The filing also implements changes required by Commission Regulations Section 284.10(b)(1)(i), relating to intra-day nominations promulgated March 12, 1998, by GISB.

Sabine states that copies of this filing are being mailed to its customers, state commission and other interested parties.

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. 20427, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27137 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–13–000]

Steuben Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 2, 1998.

Steuben states that the purpose of the filing is to incorporate standards relating to intra-day nominations adopted by the Gas Industry Standards Board and incorporated into the Commission's Regulations by Order No. 587–H, issued July 15, 1998, at Docket No. RM96–1–008.

Steuben states that copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27142 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

October 5, 1998.

Take notice that on September 28, 1998, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–806–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new delivery point to be located on Tennessee's system in Worcester County, Massachusetts in order to provide transportation service for ANP Blackstone Energy Company (ANP), an independent electric power producer, under its blanket certificate issued in Docket No. CP82–413–000, pursuant to Section 7(C) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Tennessee proposes to construct and operate the new delivery point on Tennessee's 266A–200 Line in Worcester County, Massachusetts. Tennessee says it will install a 12-inch tee and valve at M.P. 266A–201A+0.67, approximately 2050-feet of 12-inch diameter loop line between M.P. 266A–201A+0.67 and M.P. 266A–201A+1.06, and two crossover valves. In addition, Tennessee relates it will install approximately 4,050-feet of 12-inch diameter lateral line commencing at M.P. 266A–201A+1.06. Tennessee indicates it will also install measurement facilities, electronic gas measurement, gas chromatograph equipment, a flow control valve and appurtenant facilities as well as make the necessary site improvements.

Tennessee says it expects to deliver up to 110,000 Mcf of natural gas per day to ANP at the proposed delivery point. Tennessee states that ANP will receive service at this point in accordance with the terms and conditions of an

interruptible transportation agreement pursuant to Tennessee's Rate Schedule IT and/or on a firm basis, through other third party transportation arrangements with existing Tennessee shippers.

Tennessee states that (i) the total quantities to be delivered to ANP after the delivery point is installed will not exceed previously authorized total quantities; (ii) the proposed modification is not prohibited by its tariff; and (iii) it has sufficient capacity to accomplish deliveries at the proposed delivery point without detriment or disadvantage to Tennessee's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, 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 (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed 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,

Secretary.

[FR Doc. 98–27126 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–1–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

October 5, 1998.

Take notice that on October 1, 1998, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, and Original Volume No. 2, the following tariff sheets, with an effective date of November 1, 1998:

Fifth Revised Volume No. 1

Eighteenth Revised Sheet No. 20
Nineteenth Revised Sheet No. 21A
Twenty-fifth Revised Sheet No. 22
Nineteenth Revised Sheet No. 22A
Fourteenth Revised Sheet No. 23
Sixth Revised Sheet No. 23A
Ninth Revised Sheet No. 23B
Fourth Revised Sheet No. 23C
Twenty-first Revised Sheet No. 24
Fifteenth Revised Sheet No. 25
Eleventh Revised Sheet No. 26
Eleventh Revised Sheet No. 26A
Nineteenth Revised Sheet No. 26B

Original Volume No. 2

Thirty-fifth Revised Sheet No. 5

Tennessee states that the purpose of the filing is to comply with a requirement in Tennessee's GSR settlement that Tennessee restate its base tariff rates to reflect spin-offs or spin-downs of production area plant facilities and to adjust the rates for certain incrementally priced services as provided by the settlement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27130 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–17–000]

Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to become effective November 1, 1998:

Sixteenth Revised Sheet No. 42A
Third Revised Sheet No. 130

Texas Eastern asserts that the above listed tariff sheets are being filed in compliance with the Commission's order issuing certificate issued July 17, 1998, in Docket No. CP98–336–000 (July 17 Order).

Texas Eastern states that pursuant to Section 4 of the Natural Gas Act and in compliance with Ordering Paragraph (D) of the July 17 Order, Texas Eastern is submitting a Limited Section 4 filing solely to revise, restate and reduce its Rate Schedule LLFT and LLIT maximum rates as more fully set out in the filing.

Texas Eastern states that copies of the filing were mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 285.214 or 285.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27145 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–39–000]

TransColorado Gas Transmission; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, TransColorado Gas Transmission Company (TransColorado) tendered for filing to become a part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of November 1, 1998:

Fifth Revised Sheet No. 203
Second Revised Sheet No. 203.01
First Revised Sheed No. 231A

TransColorado states that the filing is being made in compliance with Order

No. 587–H issued July 15, 1998, at Docket No. RM96–1–008.

TransColorado states that the tariff sheets are being filed to implement the intra-day nominations regulations adopted by the Commission in Order No. 587–H. The tendered tariff sheets are proposed to become effective November 1, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27162 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–430–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on September 30, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain new and revised tariff sheets. Appendix A attached to the filing contains the enumeration of the proposed tariff sheets. The proposed effective date of such tariff sheets is November 1, 1998.

Transco states that the purpose of the instant filing is to submit tariff sheets setting forth Transco's interconnect policy, and, as an integral part of its interconnect policy, to submit tariff sheets establishing a new delivery lateral service (DLS) Rate Schedule.

Transco states that it is serving copies of the instant filing to its affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27127 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–28–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which tariff sheets are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to be effective November 1, 1998.

Transco states that the instant filing is submitted pursuant to Section 44 of the General Terms and Conditions of Transco's Volume No. 1 Tariff which provides that Transco will reflect in its rates the costs incurred for the transportation and compression of gas by others (hereinafter TBO). Section 44 provides that Transco will file to reflect net changes in its TBO rates at least 30 days prior to the November 1 effective date of each annual TBO filing.

On August 21, 1998 Transco's last remaining TBO contract expired. Thus, the only TBO amount remaining to be recovered is the current deferral balance as of July 31, 1998 plus the TBO expense for August, 1998 associated with the expired contract. As set forth in Appendix B, TBO projects that the unrecovered balance in the deferred account as of October 31, 1998 will approximate $20,000. Based on the foregoing, Transco proposed to eliminate the TBO surcharge from its rates effective November 1, 1998. Further, Transco will not seek to include in rates any remaining balance in its TBO deferred account as of October 31, 1998.

Transco states that copies of the filing are being mailed to affected customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27154 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–30–000]

Transwestern Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, Fourth Revised Sheet No. 58.03, to be effective November 1, 1998.

Transwestern states that its FERC Gas Tariff allows Transwestern to recover eligible transition costs under Order Nos. 528 *et al.*, (TCR II Costs). Such cost recovery was established by the Stipulation and Agreement (Stipulation) Transwestern filed on May 2, 1995, in Docket Nos. RP95–271, et al. TCR II Costs are recoverable from Current Firm Shippers through a reservation surcharger (TCR II Reservation Surcharge), which is allocated annually

based on the allocation factor that supports the TCR II recovery mechanism (TCR II Allocation Factor). Transwestern states that the reason for this filing is to set forth the new TCR II Reservation Surcharges that Transwestern proposes to put into effect on November 1, 1998.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27155 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–32–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets to be effective November 1, 1998:

Seventh Revised Sheet No. 49
Thirteenth Revised Sheet No. 80
Eighth Revised Sheet No. 80A
First Revised Sheet No. 80A.01
Original Sheet No. 80A.02
Sixth Revised Sheet No. 80B
Third Revised Sheet No. 81E
Original Sheet No. 81F

Transwestern states that the above-listed tariff sheets are filed in compliance with Order No. 587–H issued July 15, 1998 in Docket No. RM96–1–008 (Order No. 587–H).

Transwestern states that copies of the filing were served upon Tranwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27157 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–33–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1998:

Eighth Revised Sheet No. 5B.02
Fifth Revised Sheet No. 5B.03
Third Revised Sheet No. 91B

Transwestern states that the purpose of this filing is to notify the Commission and submit the appropriate tariff sheet changes to reflect the assignment of 25,000 MMBtu/D of firm capacity under two firm transportation agreements under Transwestern's Rate Schedule FTS–1 by Pacific Gas & Electric Co. (UEG) to Duke Energy Trading and Marketing, L.L.C.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27158 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–34–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet proposed to become effective on November 1, 1998:

Seventh Revised Sheet No. 5B.02

Transwestern's Stipulation and Agreement (Settlement) filed on May 2, 1995, in Docket Nos. RP95–271 *et al.*, as amended in Transwestern's Stipulation and Agreement filed on May 21, 1996, provide for adjustments to the Settlement Base Rates (SBR's) beginning November 1, 1998.

Transwestern states that the purpose of this filing is to set forth the factors and calculations used in determining the adjustments to the SBR's and to revise the SBR's to be effective November 1, 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions

or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27159 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–20–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volumed No. 1, the following tariff sheets to be effective November 2, 1998:

Fifth Revised Sheet No. 46
Fifth Revised Sheet No. 52
Third Revised Sheet No. 56D
Eighth Revised Sheet No. 167
Second Revised Sheet No. 167A
First Revised Sheet No. 167B
Original Sheet No. 167C
Fourth Revised Sheet No. 242A

Trunkline states that the purpose of this filing is to comply with Order No. 587–H, Final Rule Adopting Standards for Intra-day Nominations and Order Establishing Implementation Date issued on July 15, 1998 in Docket No. RM96–1–008. The revised tariff sheets included herewith reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations. Specifically, newly adopted Standards 1.2.8, 1.2.9, 1.2.10, 1.2.11, 1.2.12, 1.3.39, 1.3.40, 1.3.41, 1.3.42, 1.3.43 and 1.3.44 are incorporated by reference, as well as modified Standards 1.3.20, 1.3.22 and 1.3.32. In addition, modified Standard 1.3.2 and the deletion of Standards 1.2.7, 1.3.10 and 1.3.12 are reflected in Section 3 of the General Terms and Conditions.

Trunkline states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27148 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–18–000]

Trunkline LNG Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Trunkline LNG Company (TLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1–A, the following tariff sheets to be effective November 2, 1998:

First Revised Sheet No. 64A
First Revised Sheet No. 64B Original Sheet No. 64C
Second Revised Sheet No. 115

TLNG states that the purpose of this filing is to comply with Order No. 587–H, Final Rule Adopting Standards for Intra-day Nominations and Order Establishing Implementation Date issued on July 15, 1998 in Docket No. RM96–1–008. The revised tariff sheets included herewith reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations. Specifically, newly adopted Standards 1.2.8, 1.2.9, 1.2.10, 1.2.11, 1.2.12, 1.3.39, 1.3.40, 1.3.41, 1.3.42, 1.3.43, and 1.3.44 are incorporated by reference, as well as modified Standards 1.3.20, 1.3.22 and 1.3.32. In addition, modified Standard 1.3.2 and the deletion of Standards 1.2.7, 1.3.10 and 1.3.12 are reflected in Section 3 of the General Terms and Conditions.

TLNG states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27146 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–21–000]

Venice Gathering System, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Venice Gathering System, L.L.C. (VGS), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of November 1, 1998.

VGS states that it is submitting these revised tariff sheets to incorporate the Gas Industry Standards Board (GISB) Intra-day standards adopted by Order No. 587–H in Docket No. RM96–1–008. VGS proposes a November 1, 1998 effective date for these sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions

or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27171 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–10–000]

Williams Gas Pipelines Central, Inc., Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Williams Gas Pipelines Central, Inc., (Williams), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with the proposed effective date of November 3, 1998:

Second Revised Sheet No. 2
First Revised Sheet Nos. 200-204, 230B, 233, 235, 245, 248, and 283
Original Sheet Nos. 283A

Williams states that this filing is being made in accordance with Section 154.204 of the Commission's regulations. The Commission has encouraged pipelines to move toward electronic communication. Williams is proposing in this filing to revise its General Terms and Conditions to provide more options for communication between Williams and its customers and to clarify the legal status of electronic communications.

Williams states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27139 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–11–000]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1998:

Third Revised Sheet No. 268
First Revised Sheet Nos. 271A, 271B, 271C, and 271D

Williams states that the purpose of this filing is to modify Article 14 of its FERC Gas Tariff to permit costs incurred in the assignment of any remaining gas purchase contracts through a second reverse auction process to be included as a cost eligible for recovery as GSR costs, and to establish procedures to be used in conducting the reverse auction.

Williams states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27140 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–16–000 and RP89–183–083]

Williams Gas Pipelines Central, Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Williams Gas Pipelines Central, Inc. (William), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with the proposed effective date of November 1, 1998:

Third Revised Sheet No. 6
Fifth Revised Sheet No. 6A

Williams states that this filing is being made pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Original volume No. 1. Williams hereby submits its fourth quarter, 1998, report of GSR costs.

William states that a copy of its filing was served on all of Williams' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.214 or 385.211 of the Commission's Rules and Regulations. all such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27166 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–2–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 5, 1998.

Take notice that on October 1, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective November 2, 1998.

Seventh Revised Sheet No. 206
Fifth Revised Sheet No. 227
Fourth Revised Sheet No. 227A
First Revised Sheet No. 227A.1
Original Sheet No. 227A.2
Original Sheet No. 227A.3
Original Sheet No. 227A.4
First Revised Sheet No. 227B
Original Sheet No. 227B.1
First Revised Sheet No. 227C
Third Revised Sheet No. 228
Original Sheet No. 228A
Seventh Revised Sheet No. 229
Original Sheet No. 229A
Fifth Revised Sheet No. 230
Second Revised Sheet No. 230A
Third Revised Sheet No. 236
Second Revised Sheet No. 237
Second Revised Sheet No. 238
Fifth Revised Sheet No. 371

Williston Basin states that the above-referenced tariff sheets are being filed in compliance with the Commission's order No. 587–H issued July 15, 1998 in Docket No. RM96–1–008, which incorporated by reference the standards relating to intra-day nominations promulgated March 12, 1998 by the Gas Industry Standards Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Secretary.

[FR Doc. 98–27131 Filed 10–8–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6175–1]

Contractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following contractor for access to information that has been, or will be, submitted to EPA under sections 109–112, 114, 129 and 183 of the Clean Air Act (CAA) as amended: Research Triangle Institute, 3040 Cornwallis Road, Research Triangle Park, North Carolina 27709, under contract number 68–W7–0018.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA under the CAA will occur no sooner October 19, 1998.

FOR FURTHER INFORMATION CONTACT: Melva Toomer, Document Control Officer, Office of Air Quality Planning and Standards (MD–11), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541–0880.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under sections 109–112, 114, 129 and 183 of the CAA that EPA may provide the above mentioned contractor access to these materials on a need-to-know basis. This contractor will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) and the Office of Pollution Prevention and Toxics (OPPT) in the analyses of cost and benefits of actual or potential EPA action taken under the Toxic Substances Control Act (TSCA) and the CAA. This contractor was previously authorized to access CBI submitted under TSCA under a **Federal Register** document issued June 13, 1997 (62 FR 32319–32320) .

In accordance with 40 CFR part 2, subparts B and other EPA regulations and policies, EPA has determined that this contractor requires access to CBI, submitted to EPA under sections 109–112, 114, 129 and 183 of the CAA, in order to perform work satisfactorily under the above noted contract. The contractor personnel will be given access to information submitted under the above mentioned section of the CAA. Some of the information may be claimed or determined to be CBI. The contractor's personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CAA CBI. All access to CAA CBI will take place at the contractor's facility. This contractor has appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor has access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 2001 under contract 68–W7–0018.

Dated: October 5, 1998.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 98–27265 Filed 10–8–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5496–1]

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 September 28, 1998 Through October 2, 1998 Pursuant to 40 CFR 1506.9.

EIS No. 980389, Draft EIS, FHW, CA, San Francisco-Oakland Bay Bridge, East Span Seismic Safety Project, Connection between I–80 Yerba Buena Island and Oakland, US Coast Guard Permit and COE Section 404 Permit, San Francisco and Alameda Counties, CA, Due: November 23, 1998, Contact: John R. Schultz (916) 498–5041.

EIS No. 980390, Draft EIS, BOP, WV, Preston County Federal Correctional Facility, Construction, Preston County, WV, Due: November 23, 1998, Contact: David J. Dorworth (202) 514–6470.

EIS No. 980391, Draft Supplement, FHW, GA, Harry S. Truman Parkway, Construction from the Abercon Street Extension (GA–204) to Derenne Avenue, COE Section 404 Permit and U.S. Coast Guard Permit, Chatham County, GA, Due: November 23, 1998, Contact: Jennifer Kittle (404) 562–3653.

EIS No. 980392, Draft EIS, USA, AR, Fort Chaffee Disposal and Reuse, Implementation, Ozark Mountains, Sebastian, Crawford, Franklin, Smith, Barling and Greenwood Counties, AR, Due: November 23, 1998, Contact: Carla Coulson (703) 697–0225.

EIS No. 980393, Draft Supplement, AFS, CO, Telluride Ski Area Expansion Project, Implementation, New/Additional Information, Special-Use-Permit and COE Section 404 Permit, Grand Mesa Uncompahgre and Gunnion National Forests, Norwood Ranger District, San Miguel County, CO, Due: November 23, 1998, Contact: Arthur Bauer (970) 327–4261.

EIS No. 980394, Final Supplement, FRC, AL, North Alabama Natural Gas Pipeline Facilities, Construction and Operation, COE Section 10 and 404 Permits, Right-of-Way and NPDES Permits, AL, Due: November 9, 1998, Contact: Paul McKee (202) 208–1088.

EIS No. 980395, Draft EIS, NOA, FL, Spiny Dogfish (Squalus acanthras) Fishery Management Plan, Implementation, Northwest Atlantic Ocean, Labrador to Florida, Due: November 23, 1998, Contact: Hannah Goodale (978) 281–9315.

EIS No. 980396, Draft EIS, COE, AL, GA, FL, Apalachicola-Chattahochee-Flint (AFC) River Basin Water Allocation, Allocation Formula Approval, AL, FL and GA , Due: December 18, 1998, Contact: Joanne Brandt (334) 690–3260.

EIS No. 980397, Final Supplement, COE, CA, Napa River and Napa Creek Flood Protection Project, New Information, City of Napa, Napa County, CA, Due: November 9, 1998, Contact: Mark Wingate (916) 557–6727.

EIS No. 980398, Final EIS, AFS, MT, Stillwater Mine Revised Waste Management Plan and Hertzler Tailings Impoundment, Construction and Operation, Plan-of-Operation, and COE Section 404 Permit, Custer National Forest, Stillwater County, MT, Due: November 9, 1998, Contact: Pat Pierson (406) 446–2103.

EIS No. 980399, Draft EIS, NPS, CA, Fort Baker Site, Golden Gate National Recreation Area, Comprehensive Management Plan, Implementation, Marin County, CA, Due: December 07, 1998, Contact: Alan Schmierer (415) 427–1441.

EIS No. 980400, Draft EIS, AFS, ID, Silver Creek Integrated Resource Project, Implementation, Middle Fork Payette River, Boise National Forest, Boise and Valley Counties, ID, Due: November 30, 1998, Contact: Chris Worth (208) 365–7000.

EIS No. 980401, Draft EIS, COE, AL, GA, Alabama-Coosa-Tallapoosa (ACT) River Basin Compact, Water Allocation, several counties, AL and GA, Due: December 18, 1998, Contact: Michael L. Eubank (334) 694–3861.

EIS No. 980402, Final Supplement, NOA, Snapper Grouper Fishery, Amendment 9 to the Fishery Management Plan, Regulatory Impact Review, South Atlantic Region, Due: November 9, 1998, Contact: Andrew Kemmerer (727) 570–5300.

Dated: October 6, 1998.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 98–27201 Filed 10–8–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6174–8]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held on November 4–6, 1998, in New Carrollton, MD. The CHPAC was created to advise the Environmental Protection Agency in the development of regulations, guidance and policies to address children's environmental health.

DATES: Wednesday, November 4, 1998, Work Group meetings only; Thursday, November 5 and Friday, November 6, 1998, plenary sessions.

ADDRESSES: Ramada Inn Conference and Exhibition Center, 8500 Annapolis Rd, New Carrollton, MD 20784.

AGENDA ITEMS: The meetings of the CHPAC are open to the public. The Outreach and Communications Work Group, the Economics and Assessment Work Group, and the Science and Research Work Group will meet from 10:00 a.m. to 5:00 p.m. on Wednesday, November 4, 1998. The plenary session will be on Thursday, November 5, 1998, from 9:00 a.m. to 5:30 p.m. and Friday, November 6, 1998, from 9:00 to 12:30 p.m. The plenary session will open with introductions and a review of the agenda and objectives for the meeting. Some tentative agenda items include reports from the Work Groups, a panel discussion on EPA's proposed rule concerning "Identification of Dangerous Levels of Lead," and strategic planning for the CHPAC. There will be a public comment period on Thursday, November 5, 1998.

FOR FURTHER INFORMATION CONTACT: Paula R. Goode, Office of Children's Health Protection, USEPA, MC 1107, 401 M Street, SW, Washington, D.C. 20460, (202) 260–7778, goode.paula@epa.gov.

Dated: October 1, 1998.

E. Ramona Trovato,

Director, Office of Children's Health Protection.

[FR Doc. 98–27266 Filed 10–8–98; 8:45 am]

BILLING CODE 6560–50–P

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 10:05 a.m. on Tuesday, October 6, 1998, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to the Corporation's corporate activities, and (2) matters relating to an administrative enforcement proceeding.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of Thrift Supervision), concurred in by Director Julie L. Williams (Acting Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration or 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)(6), (c)(8), (c)(9)(A)(ii), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), 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: October 6, 1998.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–27315 Filed 10–7–98; 9:50 am]

BILLING CODE 6714–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; Information Collection Revision Submitted for OMB Review

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of information collection reinstatement submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") has sent to the Office of Management and Budget ("OMB") the following reinstatement, without change, of a previously approved collection for which approval has expired.

DATES: Comments on this information collection must be received on or before November 9, 1998.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2100 Pennsylvania Avenue, NW, Suite 200, Washington, DC 20037; and Alexander T. Hunt, Clearance Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, 2100 Pennsylvania Avenue, NW, Suite 200, Washington, DC 20037, from whom copies of the information collection and supporting documents are available.

Summary of Revision

Title: 12 CFR part 1102, subpart C; Rules pertaining to the privacy of individuals and systems of records maintained by the Appraisal Subcommittee.

Type of Review: Regular submission.

Description: The information will be used by the ASC and its staff in determining whether to grant to an individual access to records pertaining to that individual and whether to amend or correct ASC records pertaining to that individual under the Privacy Act of 1974 (5 U.S.C. 552a).

Form Number: None.

OMB Number: 3139–0004.

Affected Public: Individuals and households.

Number of Respondents: 50 respondents.

Total Annual Responses: 50 responses.

Average Hours Per Response: .33 hours.

Total Annual Burden Hours: 16.67 hours.

Dated: October 5, 1998.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Marc L. Weinberg,

Acting Executive Director and General Counsel.

[FR Doc. 98–27094 Filed 10–8–98; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; Information Collection Revision Submitted for OMB Review

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of information collection reinstatement submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("ASC") has sent to the Office of Management and Budget ("OMB") the following reinstatement, without change, of a previously approved collection for which approval has expired.

DATES: Comments on this information collection must be received on or before November 9, 1998.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2100 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20037; and Alexander T. Hunt, Clearance Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, 2100 Pennsylvania Avenue, N.W., Suite 200, Washington, D.C. 20037, from whom copies of the information collection and supporting documents are available.

Summary of Revision

Title: 12 CFR part 1102, subpart B; Rules of Practice for Proceedings.

Type of Review: Regular submission.

Description: Procedures for ASC non-recognition and "further action" proceedings against State appraiser regulatory agencies and other persons under § 1118 of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. § 3347).

Form Number: None.

OMB Number: 3139–0005.

Affected Public: State, local or tribal government.

Number of Respondents: 55 respondents.

Total Annual Responses: 2 responses

Average Hours Per Response: 60 hours.

Total Annual Burden Hours: 120 hours.

Dated: October 5, 1998.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Marc L. Weinberg,

Acting Executive Director and General Counsel.

[FR Doc. 98–27095 Filed 10–8–98; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 224–200156–003.

Title: State of Hawaii Terminal Lease Agreement

Parties:

State of Hawaii

Matson Terminals, Inc.

Synopsis: The proposed amendment provides for a change of part of the area covered by the lease and for a change in the rental payment. The agreement continues to run through September 19, 2023.

Agreement No.: 224–200599–005

Title: Oakland Yusen Terminal Agreement

Parties:

City of Oakland, Board of Port Commissioners

Yusen Terminals, Inc.

Synopsis: The proposed amendment provides for the port funding construction of certain terminal facilities, for modifying rental and compensation provisions and for the deletion of the renewal option. The

agreement continues to run through December 10, 2006.

By Order of the Federal Maritime Commission.

Dated: October 5, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–27108 Filed 10–8–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1994 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 4176.
Name: Air & Ocean International, Inc.
Address: 3400 West Esplanade Ave., Suite D, Metairie, LA 70002.
Date Revoked: August 31, 1998.
Reason: Surrendered license voluntarily.

License Number: 3260.
Name: Associated Customhouse Brokers, Inc.
Address: 1099 Jay Street, Bldg. C5, Rochester, NY 14611.
Date Revoked: September 14, 1998.
Reason: Surrendered license voluntarily.

License Number: 4029.
Name: Elaine Blair, d/b/a Blair International Forwarding Company.
Address: 4404 W. Trilby Avenue, Tampa, FL 33616.
Date Revoked: September 6, 1998.
Reason: Failed to maintain a valid surety bond.

License Number: 4389.
Name: Cincus, Inc.
Address: P.O. Box 9129, Dallas, TX 75209.
Date Revoked: September 16, 1998.
Reason: Failed to maintain a valid surety bond.

License Number: 4118.
Name: Duane D. Simpson, d/b/a SafeTech Int'l.
Address: 3100–F Piper Lane, Charlotte, NC 28208.
Date Revoked: September 19, 1998.
Reason: Failed to maintain a valid surety bond.

License Number: 648.
Name: Gateway Shipping Co., Inc.
Address: 80 Sheridan Blvd., Inwood, NY 11096–1800.
Date Revoked: August 29, 1998.
Reason: Failed to maintain a valid surety bond.

License Number: 4149.
Name: Great Western Steamship Company.
Address: 17887 SE Federal Highway, Tequesta, FL 33469.
Date Revoked: September 20, 1998.
Reason: Failed to maintain a valid surety bond.

License Number: 4388.
Name: Heung R. Park, d/b/a Oscar Freight Line.
Address: 555 W. Redondo Beach Blvd., Suite 250, Gardena, CA 90248.
Date Revoked: August 28, 1998.
Reason: Failed to maintain a valid surety bond.

License Number: 2496.
Name: Inter-Maritime Forwarding Co. Illinois, Inc.
Address: 400 West Lake Street, Suite 300, Roselle, IL 60172.
Date Revoked: August 28, 1998.
Reason: Surrendered license voluntarily.

License Number: 3207.
Name: O-Super Express, Inc.
Address: 21136 S. Wilmington Ave., Suite 200, Long Beach, CA 90810–1248.
Date Revoked: August 28, 1998.
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 98–27236 Filed 10–8–98; 8:45 am]

BILLING CODE 6730–01–M

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 October 23, 1998.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. William R. Blanton, Duluth, Georgia; to acquire additional voting shares of First Capital Bancorp, Inc., Norcross, Georgia, and thereby indirectly acquire First Capital Bank, Norcross, Georgia.

Board of Governors of the Federal Reserve System, October 5, 1998.

Robert deV. Frierson,

Associate Secretary of the Board

[FR Doc. 98–27184 Filed 10–8–98; 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 November 2, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Mt. Sterling Bancorp, Inc., Mt. Sterling, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Mt. Sterling Bancshares, Inc., Mt. Sterling, Illinois, and thereby indirectly acquire

Farmers State Bank & Trust Company, Mt. Sterling, Illinois.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Bluestem Bank Holding Company L.L.C., Sioux Falls, South Dakota; to acquire an additional 7.95 percent, thereby increasing its ownership interest from 23.05 percent to 31 percent, of the voting shares of Thomson Holdings, Inc., Centerville, South Dakota, and thereby indirectly acquire First Midwest Bank, Centerville, South Dakota.

2. First Community Bancorp., Inc., Glasgow, Montana; to merge with Froid Bankshares, Inc., Froid, Montana, and thereby indirectly acquire First State bank of Froid, Froid, Montana.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Astra Financial Corporation, Prairie Village, Kansas; to become a bank holding company by acquiring 100 percent of Mitchell County Bank, Simpson, Kansas, and up to 13.52 percent of First Missouri Bancshares, Brookfield, Missouri, and indirectly acquire First Missouri National Bank, Brookfield, Missouri.

Board of Governors of the Federal Reserve System, October 5, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–27185 Filed 10–8–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Wednesday, October 14, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed additional responsibilities for a Federal Reserve Board division.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 7, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–27318 Filed 10–7–98; 10:23 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Executive Subcommittee.

Time and Date: 1:30 a.m.–5:30 p.m., October 29, 1998.

Place: Room 405A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: At this meeting the Executive Subcommittee will be developing agendas for meetings of the full National Committee on Vital and Health Statistics on November 12–13, 1998 and February 2–4, 1999 and attending to other business as required

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification cared will need to have the guard call for an escort to the meeting.

For More Information Contact: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from James Scanlon, NCVHS Executive Staff Director, Office of the Assistant Secretary for Planning and Evaluation, DHHS, Room 440–D, Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, telephone (202) 690–7100, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS website: http://aspe.os.dhhs.gov/ncvhs.

Dated: October 1, 1998.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 98–27175 Filed 10–8–98; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Subcommittee on Populations.

Time and Date: 9:30 a.m.–5:00 p.m., October 30, 1998.

Place: Room 705A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

Status: Open.

Purpose: At this meeting the Subcommittee on Special Populations will be considering recommendations for its report on medicaid managed care. The Subcommittee will also be deliberating over its charge and work plan for next year.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey building by non-government employees. Thus, persons without a government identification card will need to have the guard call for an escort to the meeting.

For Further Information Contact: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Carolyn M. Rimes, Lead Staff Person for the NCVHS Subcommittee on Special Populations, Office of Research and Demonstrations, Health Care Financing Administration, MS–C4–13–01, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, telephone (410)–786–6620; or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS, home page of the HHS website: http://aspe.os.dhhs.gov/ncvhs.

Dated: October 1, 1998.

James Scanlon,

Director, Division of Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 98–27176 Filed 10–8–98; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97E–0293]

Determination of Regulatory Review Period for Purposes of Patent Extension; Skelid®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Skelid® and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6620.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Skelid® (tiludronate disodium). Skelid® is indicated for treatment of Paget's disease of bone (osteitis deformans). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Skelid® (U.S. Patent No. 4,876,248) from Sanofi Pharmaceuticals, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated November 7, 1997, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Skelid® represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Skelid® is 2,013 days. Of this time, 1,639 days occurred during the testing phase of the regulatory review period, 374 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355) became effective*: September 4, 1991. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on September 4, 1991.

2. *The date the application was initially submitted with respect to the human drug product under section 505 of the act*: February 28, 1996. FDA has verified the applicant's claim that the new drug application (NDA) for Skelid® (NDA 20–707) was initially submitted on February 28, 1996.

3. *The date the application was approved*: March 7, 1997. FDA has verified the applicant's claim that NDA 20–707 was approved on March 7, 1997.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,192 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before December 8, 1998, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before April 7, 1999, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 28, 1998.

Thomas J. McGinnis,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 98–27078 Filed 10–8–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 2, 1998, 8:30 a.m. to 5 p.m.

Location: Gaithersburg Holiday Inn, Walker/Whetstone Rooms, Two Montgomery Village Ave., Gaithersburg, MD.

Contact Person: Rhonda W. Stover or John B. Schupp, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12531. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug applications (NDA's) 20–977 (tablets) and 20–978 (oral solution) for abacavir sulfate (Ziagen, Glaxo Wellcome, Inc.) for the treatment of human immunodeficiency virus (HIV) infection.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 26, 1998. Oral presentations from the public will be scheduled between approximately 11 a.m. and 12 m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 26, 1998, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated. October 2, 1998.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 98–27082 Filed 10–8–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

1998 FDA Science Forum on Biotechnology: Advances, Applications, and Regulatory Challenges

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration's (FDA's) Office of Science is announcing the following meeting: "1998 FDA Science Forum on Biotechnology: Advances, Applications, and Regulatory Challenges." The meeting will bring FDA scientists together with representatives of industry, academia, government agencies, consumer groups, and the public to discuss the impact of the enormous advances in biotechnology on product development and regulation. The program will encompass bioengineered products, novel therapeutic and preventive approaches, diagnostics and detection methodologies, and safety and efficacy assessment.

Date and Time: The meeting will be held on December 8, 1998, 8:30 a.m. to 6 p.m., and December 9, 1998, 8:30 a.m. to 5 p.m.

Location: Washington Convention Center, rms. 30–33 (lower level) and Hall C (upper level), 900 Ninth St. NW., Washington, DC.

Contact: Susan A. Homire, Office of Science (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3366, e-mail "shomire@bangate.fda.gov" or American Association of Pharmaceutical Scientists 703–518–8429, e-mail "meetings@aaps.org".

Registration: December 8 and 9, 1998, 7 a.m. to 8:30 a.m. Registration and program information are available on the Internet at "http://www.aaps.org/edumeet.html". Attendance will be limited, therefore, interested parties are encouraged to register early.

If you need special accommodations due to a disability, please contact the American Association of Pharmaceutical Scientists at least 3 weeks in advance.

Dated: October 1, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–27081 Filed 10–8–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

National Consumer Forum; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following meeting: "National Consumer Forum." This forum will provide an opportunity for consumers and older Americans to engage in an open dialogue with senior FDA officials on specific health concerns and consumer protection issues. These types of forums enable the agency to better determine the level of public interest in its current policies, as well as to promote a better understanding of consumer issues and concerns.

Date and Time: The meeting will be held on Monday, October 19, 1998, from 1 p.m. to 4 p.m.

Location: The meeting will be held at the Department of Health and Human Services, Hubert Humphrey Bldg., Great Hall, 200 Independence Ave. SW., Washington, DC.

Contact: Synthia E. Jenkins, Office of Consumer Affairs (HFE–40), Food and Drug Administration, 5600 Fishers Lane, 301–827–4412, FAX 301–443–9767.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number), to the contact person by October 15, 1998.

If you need special accommodations due to a disability, please contact Synthia E. Jenkins at least 7 days in advance.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page.

Dated: October 6, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–27338 Filed 10–7–98; 12:38 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0546]

Agency Information Collection Activities; Announcement of OMB Approval; Food Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Food Labeling Regulations (21 CFR Parts 101, 102, 104, and 105)" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 21, 1998 (63 FR 39093), 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 0910–0381. The approval expires on September 30, 2001.

Dated: October 1, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–27079 Filed 10–8–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Availability of Funds for Loan Repayment Program for Repayment of Health Professions Educational Loans

AGENCY: Indian Health Service, HHS.

ACTION: Notice.

SUMMARY: The Administration's budget request for fiscal year (FY) 1999 includes $11,000,000 for the Indian Health Service Loan Repayment Program for health professions educational loans (undergraduate and graduate) in return for full-time clinical service in Indian health programs. It is anticipated that $11,000,000 will be available to support approximately 250 competing awards averaging $50,000 per award.

This program announcement is subject to the appropriation of funds. This notice is being published early to coincide with the recruitment activity of the IHS, which competes with other Government and private health management organizations to employ qualified health professionals. Funds must be expended by September 30 of the fiscal year. This program is authorized by Section 108 of the Indian Health Care Improvement Act (IHCIA) as amended, 25 U.S.C. 1601 *et seq.* The IHS invites potential applicants to request an application for participation in the Loan Repayment Program.

DATES: Applications for the FY 1999 Loan Repayment Program will be accepted and evaluated monthly beginning January 15, 1999, and will continue to be accepted each month thereafter until all funds are exhausted. Subsequent monthly deadline dates are scheduled for Friday of the second full week of each month. Notice of awards will be mailed on the last working day of each month.

Applicants selected for participation in the FY 1999 program cycle will be expected to begin their service period no later than September 30, 1999.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

Applications received after the monthly closing date will be held for consideration in the next monthly funding cycle. Applicants who do not receive funding by September 30, 1999, will be notified in writing.

Form to be Used for Application: Applications will be accepted only if they are submitted on the form entitled "Application for the Indian Health Service Loan Repayment Program," identified with the Office of Management and Budget approval number of OMB #0917–0014 (expires 11/30/99).

ADDRESSES: Application materials may be obtained by calling or writing to the address below. In addition, completed applications should be returned to: IHS Loan Repayment Program, 12300 Twinbrook Parkway—Suite 100, Rockville, Maryland 20852, PH: 301/443–3396 [between 8:00 a.m. and 5:00 p.m. (EST) Monday through Friday, except Federal holidays].

FOR FURTHER INFORMATION CONTACT: Please address inquiries to Mr. Charles Yepa, Chief, IHS Loan Repayment Program, Twinbrook Metro Plaza—Suite 100, 12300 Twinbrook Parkway, Rockville, Maryland 20852, PH: 301/443–3396 [between 8:00 a.m. and 5:00 p.m. (EST) Monday through Friday, except Federal holidays].

SUPPLEMENTARY INFORMATION: Section 108 of the IHCIA, as amended by Public laws 100–713 and 102–573, authorizes the IHS Loan Repayment Program and provides in pertinent part as follows:

> The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the "Loan Repayment Program") in order to assure an adequate supply of trained health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs.

Section 4(n) of the IHCIA, as amended by the Indian Health Care Improvement Technical Corrections Act of 1996, Public Law 104–313, provides that:

> "Health Profession" means allopathic medicine, family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine, environmental health and engineering, an allied health profession, or any other health profession.

For the purposes of this program, the term "Indian health program" is defined in Section 108(a)(2)(A), as follows:

> * * * any health program or facility funded, in whole or in part, by the IHS for the benefit of American Indians and Alaska Natives and administered:
>
> a. Directly by the service; or
>
> b. By any Indian tribe or tribal or Indian organization pursuant to a contract under:
>
> (1) The Indian Self-Determination Act; or
>
> (2) Section 23 of the Act of April 30, 1908, (25 U.S.C. 47), popularly known as the Buy Indian Act; or
>
> (3) By an urban Indian organization pursuant to Title V of this act.

Applicants may sign contractual agreements with the Secretary for 2 years. The IHS will repay all or a portion of the applicant's health professions educational loans (undergraduate and graduate) for tuition expenses and reasonable educational and living expenses in amounts up to $30,000 per year for each year of contracted service to be made in annual payments to the participant for the purpose of repaying his/her outstanding health professions educational loans. Repayment of health professions educations loans will be made to the participant within 120 days after the participant's entry on duty has been confirmed by the IHS.

The Secretary must approve the contract before the disbursement of loan repayments can be made to the participant. Participants will be required to fulfill their contract service agreements through full-time clinical practice at an Indian health program site determined by the Secretary. Loan repayment sites are characterized by physical, cultural, and professional isolation, and have histories of frequent staff turnover. All Indian health program sites are annually prioritized within the Agency by discipline, based on need or vacancy.

All health professionals will receive up to $30,000 per year, regardless of their length of contract. Where payments under the Loan Repayment Program result in an increase in Federal income tax liability, the IHS will pay up to 31 percent of the participant's total loan repayments to the Internal Revenue Service on the participant's behalf for all or part of the increased tax liability of the participant.

Pursuant to Section 108(b), to be eligible to participate in the Loan Repayment Program, an individual must:

(1) A. Be enrolled:

(1) In a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in the Loan Repayment Program. (This includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau); or

(ii) In an approved graduate training program in a health profession; or

B. Have a degree in a health profession and a license to practice; and

(2) A. Be eligible for or hold an appointment as a Commissioned Officer in the Regular or Reserve Corps of the Public Health Service; or

B. Be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service; or

C. Meet the professional standards for civil service employment in the IHS; or

D. Be employed in an Indian health program without service obligation; AND

(3) Submit to the Secretary an application and contract to the Loan Repayment Program; AND

(4) Sign and submit to the Secretary, a written contract agreeing to accept repayment of educational loans and to serve for the applicable period of obligated service in a priority site as determined by the Secretary; AND

(5) Sign an affidavit attesting to the fact that they have been informed of the relatives merits of the U.S. Public Health Service Commissioned Corps and the Civil Service as employment options.

Once the applicant is approved for participation in the Loan Repayment Program, the applicant will receive confirmation of his/her loan repayment award and the duty site at which he/she will serve his/her loan repayment obligation.

The IHS has identified the position in each Indian health program for which there is a need or vacancy and ranked those positions in order of priority by developing discipline-specific prioritized lists of sites. Ranking criteria for these sites include the following:

- Historically critical shortages caused by frequent staff turnover;
- Current unmatched vacancies in a Health Profession Discipline;
- Projected vacancies in a Health Profession Discipline;
- Ensuring that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and
- Giving priority to vacancies in Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached Loan Repayment Program contracts entered into under this section. Consistent with this priority ranking, in determining which applications to approve and which contracts to accept, the IRS will give priority to applications made by American Indians and Alaska Natives and to individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.
- With respect to priorities among the various health professions, the statute requires that of the total amount appropriated for FY 1999 for loan repayment contracts, not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives and not less than 10 percent be provided to applicants who are mental health professionals (other than nurses, nurse practitioners, or nurse midwives). The agency has also set aside 10 percent of the appropriated amount for dentists. This requirement does not apply if the number of applicants from these groups, respectively, is not sufficient to meet the requirement.
- Subject to the above statutory priority for nurses and mental health practitioners, the IHS will give priority in funding among health professionals to physicians in the following priority specialities: anesthesiology, emergency room medicine, general surgery, obstetrics/gynecology, ophthalmology, orthopedic surgery, otlaryngology/ otorhinolaryngology, psychiatry, radiology and dentistry.

The following factors are equal in weight when applied, and are applied when all other criteria are equal and a selection must be made between applicants.

One or all of the following factors may be applicable to an applicant, and the applicant who has the most of these factors, all other criteria being equal, would be selected.

- An applicant's length of current employment in the IHS, tribal,or urban program.
- Availability for service earlier than other applicants (first come, first served); and
- Date the individual's application was received.

Any individual who enters this program and satisfactorily completes his or her obligated period of service my apply to extend the contract on a year-by-year basis, as determined by the IHS, up to the maximum amount of $30,000 per year plus an additional 31 percent for Federal Withholding. If funds are available, the maximum amount will be funded in this manner and will not exceed the total of the individual's outstanding eligible health professions educational loans.

Any individual who owes an obligation for health professional service to the Federal Government, a State, or other entity is not eligible for the Loan Repayment Program unless the obligation will be completely satisfied before they begin service under this program.

This program is not subject to review under Executive Order 12372.

The Catalog of Federal Domestic Assistance number is 93.164.

Dated: October 2, 1998.

Michel E. Lincoln,

Acting Director.

[FR Doc. 98–27083 Filed 10–8–98; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4341–N–30]

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: October 9, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street NW, 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: October 1, 1998.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 98–26747 Filed 10–8–98; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–801464

Applicant: Ron & Joy Holiday & Charles Lizza, Alachua, FL

The applicant requests a permit to re-export and re-import one captive born Clouded leopard (*Neofelis nebulosa*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–002647

Applicant: Douglas Billingsly, Mound Valley, KS

The applicant requests a permit to export and import tigers (*Panthera pardus*)and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–003005

Applicant: Louisiana State Univ Museum of Natural Science, Baton Rouge, LA

The applicant requests a permit to export and re-import non-living museum specimens of endangered and threatened species of plants and animals previously accessioned into the permittee's collection for scientific research. This notification covers activities conducted by the applicant for a five year period.

PRT–002502

Applicant: Praveen Karanth, Albany, NY

The applicant requests a permit to export samples taken from a captive-born Francois' langur (*Trachypithecus francoisi*) for the purpose of scientific research.

PRT–001914

Applicant: Harry Koch, Heath, TX

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–001078

Applicant: John Ivey Waldrop, Cataula, GA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–002572

Applicant: U.S. Fish & Wildlife Service, Region 2, Albuquerque, NM

The applicant requests a permit to import captive-hatched and wild collected Whooping cranes (*Grus americana*) from the Calgary Zoo, Calgary, Canada, for reintroduction into the wild to enhancement the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: October 5, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–27218 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–08–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Announcement of meeting.

SUMMARY: The Bureau of Land management (BLM) announces that the Wild Horse and Burro Advisory Board will conduct a meeting on matters pertaining to management and protection of wild-free-roaming horses and burros on the Nation's public lands.

DATES: The advisory board will meet October 29–31, 1998, from 1 p.m. to 5:30 p.m. local time on Thursday, October 29, and from 8 a.m. to 5 p.m. local time on Friday, October 30. On October 31, 1998, the advisory board will participate in a field trip from approximately 7 a.m. to 12 noon local time.

Submit written comments no later than close of business November 6, 1998.

ADDRESSES: The advisory board will meet in the National Training Center, 9828 N. 31st Avenue, Phoenix, AZ 85051–2517.

Send written comments to Bureau of Land Management, WO–610, Mail Stop 406 LS, 1849 C Street, NW, Washington, DC 20240. See **SUPPLEMENTARY INFORMATION** section for electronic access and filing address.

FOR FURTHER INFORMATION CONTACT: Mary Knapp, Wild Horse and Burro Public Affairs Specialist, (202) 452–5176. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern Daylight Time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Public Meeting

Under the authority of 43 CFR part 1784, the Wild Horse and Burro Advisory Board advises the Secretary of the Interior, the Director of the BLM, the Secretary of Agriculture, and the Chief, Forest Service, on matters pertaining to management and protection of wild, free-roaming horses and burros on the Nation's public lands. The tentative agenda for the meeting is:

Thursday, October 29, 1998

—Breakout into subcommittees to address the following topics: horses on the range, horses off the range, science, and burros.

Friday, October 30, 1998

—Welcome by BLM;
—Program Update;
—Special Projects Update;
—Subcommittee Reports to the entire Board;
—Presentation of comments by members of the public.

Saturday, October 31, 1998

—Field trip to Lake Pleasant, AZ, a burro management area.

The meeting is open to the public. The advisory board will make detailed minutes of the meeting. BLM will make the minutes available to interested parties who contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting sites are accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the hearing, such as interpreting service, assistive listening device, or materials in an alternate format, must notify the person listed under **FOR FURTHER INFORMATION CONTACT** two weeks before the schedule hearing date. Although BLM will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Under the Federal advisory committee management regulations (41 CFR 101–6.1015(b)), BLM is required to publish in the **Federal Register** notice of a meeting 15 days prior to the meeting date.

II. Public Comment Procedures

Members of the public may make oral statements to the advisory board on October 30, 1998 at the appropriate point in the agenda, which is anticipated to occur at 3:30 p.m. local time. Persons wishing to make statements should register with BLM by noon on October 30, 1998, at the meeting location. Depending on the number of speakers, the advisory board may limit the length of presentations. Speakers should address specific wild horse and burro-related topics listed on the agenda. Speakers must submit a written copy of their statement to the address listed in the **ADDRESSES** section or bring a written copy to the meeting.

Participation in the advisory board meeting is not a prerequisite for submittal of written comments. BLM invites written comments from all interested parties. Your written comments should be specific and explain the reason for any recommendation. BLM appreciates any and all comments, but those most useful and likely to influence decisions on management and protection of wild horses and burros are those that are either supported by quantitative information or studies or those that include citations to and analysis of applicable laws and regulations. Except for comments provided in electronic format, commenters should submit two copies of their written comments where feasible. BLM will not necessarily consider comments received after the time indicated under the **DATES** section or at locations other than that listed in the **ADDRESSES** section.

In the event there is a request under the Freedom of Information Act (FOIA) for a copy of your comments, we intend to make them available in their entirety, including your name and address (or your e-mail address if you file electronically). However, if you do not want us to release your name and address (or e-mail address) in response to a FOIA request, you must state this prominently at the beginning of your comment. We will honor your wish to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, will be released in their entirety, including names and addresses (or e-mail addresses).

Electronic Access and Filing Address

Commenters may transmit comments electronically via the Internet to: mknapp@wo.blm.gov. Please include the identifier "WH&B" in the subject of your message and your name and address in the body of your message.

Dated: October 1, 1998.

Pat Shea,

Director, Bureau of Land Management.

[FR Doc. 98–27279 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–050–1990–00—IDI–31943, IDI–31964]

Conveyance of Federally-Owned Mineral Interests; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice to extend segregation period.

SUMMARY: Pursuant to Section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719), Harry S. Rinker, Trustee of the Roderick Rinker and Kenneth Rinker Trust, has applied to purchase the mineral estate on the following lands:

Boise Meridian, Idaho

T. 1 N., R. 17 E.
Sec. 1: Lot 1, S½NE¼, NW¼SE¼;
Sec. 2: SE¼;
Sec. 11: NE¼;
Sec. 12: NE¼NE¼, NW¼NW¼, S½N½;
Sec. 14: SW¼SW¼;
Sec. 15: SW¼SW¼, E½SE¼;
Sec. 21: Lot 1, N½NE¼, SW¼NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 22: NE¼NE¼, NW¼NW¼, NW¼SW¼, S½SW¼, SE¼;
Sec. 23: SW¼NE¼, NW¼, N½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 25: S½SW¼, SE¼;
Sec. 26: W½W½;
Sec. 27: NE¼NE¼.
T. 1 N., R. 18 E.
Sec. 6: Lots 3, 4, 5, 6, SE¼NW¼, E½SW¼;
Sec. 7: Lot 1, NE¼NW¼;
Sec. 30: Lots 2, 3, 4, SE¼NW¼, E½SW¼.
T. 2 N., R. 18 E.
Sec. 31: Lots 3, 4, E½SW¼.

The area described contains 3,430.37 acres, more or less, in Blaine County.

EFFECTIVE DATE: Upon publication of this notice in the **Federal Register**, the mineral interests described above will be segregated from the mining and mineral leasing laws. The segregative effect of the application shall be extended until terminated upon issuance of a patent, upon final rejection of the application, or for an additional 2 years from this publication date, whichever occurs first.

FOR FURTHER INFORMATION: Contact Johnny Garth, Geologist, BLM, Upper Snake River District, Shoshone Resource Area, 1400 West F Street, Shoshone, Idaho 83352, (208) 886–7276.

Dated: September 17, 1998.

Bill Baker,

Area Manager.

[FR Doc. 98–27202 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW140794]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW140794 for lands in Converse County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 16 ⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW140794 effective June 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Chief, Leasable Minerals Section.

[FR Doc. 98–27186 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Chief, Branch of Geographic Services, Bureau of Land Management (BLM), California State Office, 2135 Butano Drive, Sacramento, CA 95825–0451, (916) 978–4310.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Humboldt Meridian, California

T. 10 N., R. 3 E.—Dependent resurvey, subdivision, and informative traverse, (Group 1206) accepted April 1, 1998, to meet certain administrative needs of the Bureau of Indian Affairs, Northern California Agency.

T. 10 N., R. 5 E.—Dependent resurvey, metes-and-bounds survey, and subdivision of sections, (Group 997) accepted June 2, 1998, to meet certain administrative needs of the U.S. Forest Service, Six Rivers National Forest.

T. 11 N., R. 5 E.—Metes-and-bounds survey of Tract 42, (Group 997) accepted June 2, 1998, to meet certain administrative needs of the U.S. Forest Service, Six Rivers National Forest.

T. 10 N., R. 4 E.—Dependent resurvey, and subdivision of sections, (Group 997) accepted June 2, 1998, to meet certain administrative needs of the U.S. Forest Service, Six Rivers National Forest.

T. 11 N., R. 3 E.—Dependent resurvey, and subdivision of section 32, (Group 1149) accepted August 14, 1998, to meet certain administrative needs of the Bureau of Indian Affairs, Northern California Agency.

Mount Diablo Meridian, California

T. 35 N., R. 8 W.—Dependent resurvey, subdivision, and metes-and-bounds survey, (Group 1160) accepted April 1, 1998, to meet certain administrative needs of the U.S. Forest Service, Shasta-Trinity National Forest.

T. 35 N., R. 9 W.—Dependent resurvey, and metes-and-bounds survey, (Group 1160) accepted April 1, 1998, to meet certain administrative needs of the US Forest Service, Shasta-Trinity National Forest.

T. 16 N., R. 8 E.—Supplemental plat of the SE¼ SE¼ of section 6, accepted April 8, 1998, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 40 N., R. 17 E.—Dependent Resurvey and Subdivision of Section 20, accepted April 21, 1998, to meet certain administrative needs of the BLM, Surprise Field Office.

T. 14 N., R. 8 W.—Dependent resurvey of a portion of the subdivisional lines, (Group 1196) accepted April 23, 1998, to meet certain administrative needs of the US Forest Service, Mendocino National Forest.

T. 15 N., R. 8 W.—Dependent resurvey of a portion of the south boundary and certain subdivisional lines, (Group 1196) accepted April 23, 1998 to meet certain administrative needs of the US Forest Service, Mendocino National Forest.

T. 15 N., R. 8 W.—Dependent resurvey and subdivision of sections 4 and 5, (Group 1276) accepted May 1, 1998, to meet certain administrative needs of the US Forest Service, Mendocino Natinal Forest.

T. 13 N., R. 17 E.—Dependent resurvey, subdivision, and metes-and-bounds survey, (Group 1267) accepted May 1, 1998, to meet certain administrative needs of the US Forest Service, Lake Tahoe Basin Management Unit.

T. 7 N., R. 12 E.—Supplemental plat of the SE¼ of section 33 and the SW¼ of section 34, accepted May 26, 1998, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 46 N., R. 9 W.—Supplemental plat of the south half of section 7 and the north half of section 18, (Group 1259) accepted June 2, 1998, to meet certain administrative needs of the US Forest Service, Klamath National Forest.

T. 1 S., R. 31 E.—Dependent resurvey, subdivision and metes-and-bounds survey, (Group 1286) accepted June 19, 1998, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 29 S., R. 31 E.—Supplemental plat of the SE½ of section 2, accepted June 24, 1998, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 23 S., R. 36 E.—Dependent resurvey, subdivision of sections, and metes-and-bounds survey, (Group 954) accepted June 29, 1998, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 23 S., R. 37 E.—Dependent resurvey, and metes-and-bounds survey, (Group 957) accepted June 29, 1998, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 25 S., R. 42 E.—Dependent resurvey, and metes-and-bounds survey of tract 37, (Group 1278) accepted June 29, 1998, to meet certain administrative needs of the BLM, Ridgecrest Field Office.

T. 9 N., R. 22 E.—Dependent resurvey, and subdivision of section 11, (Group 1277) accepted July 6, 1998, to meet certain administrative needs of the BLM, Bishop Field Office.

T. 43 N., R. 13 E.—Dependent resurvey, and subdivision of sections, (Group 1283) accepted July 7, 1998, to meet certain administrative needs of the Bureau of Indian Affairs, Northern California Agency.

T. 43 N., R. 14 E.—Dependent resurvey, and subdivision of section 6, (Group 1234) accepted July 7, 1998, to meet certain administrative needs of the Bureau of Indian Affairs, Northern California Agency.

T. 32 N., R. 13 E.—Dependent resurvey, (Group 1283) accepted July 10, 1998, to meet certain administrative needs of the BLM, Eagle Lake Field Office.

T. 4 S., R. 28 E.—Dependent resurvey, subdivision and metes-and-bounds survey, (Group 1299) accepted August 4, 1998, to meet certain administrative needs of the US Forest Service, Inyo National Forest.

T. 36 N., R. 1 W.—Dependent resurvey, (Group 1244) accepted August 10, 1998, to meet certain administrative needs of the US Forest Service, Shasta-Trinity National Forest.

T. 36 N., R. 2 W.—Dependent resurvey, and subdivision of section 34, (Group 1207) accepted August 10, 1998, to meet certain administrative needs of the US Forest Service, Shasta-Trinity National Forest.

T. 16 N., R. 9 E.—Supplemental plat of mineral segregation, accepted August 10, 1998, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 14 N., R. 9 W.—Dependent resurvey, and subdivision of section 32, (Group 1245) accepted August 13, 1998, to meet certain administrative needs of the Bureau of Indian Affairs Central California Agency.

T. 25 S., R. 33 E.—Dependent resurvey, and metes-and-bounds survey, (Group 1260) accepted August 13, 1998, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 13 N., R. 8 W.—Dependent resurvey and subdivision of sections 7, 8, 17 and 18, (Group 1147) accepted September 2, 1998, to meet certain administrative needs of the BLM, Ukiah Field Office.

T. 25 S., R. 43 E.—Supplemental plat of the NW¼ of section 18, accepted September 2, 1998, to meet certain administrative needs of the BLM, California Desert District, Barstow Field Office.

T. 16 S., Rs. 7 and 8 E.—Dependent resurvey and subdivision of section 31, (Group 1057) accepted September 4, 1998, to meet certain administrative needs of the BLM, Hollister Field Office.

T. 26 S., R. 21 E.—Dependent resurvey, subdivision, and metes-and-bounds survey, (Group 1289) accepted September 8 1998, to meet certain administrative needs of the BLM, Bakersfield Field Office.

T. 16 R., R. 5 E.—Dependent resurvey and survey, (Group 1164) accepted September 22, 1998, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 16 N., R. 4 E.—Dependent resurvey and survey, (Group 1165) accepted September 22, 1998, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 43 N., R. 10 W.—Supplemental plat of the SE¼ of section 11 and the SW¼ of section 12, accepted September 23, 1998, to meet certain administrative needs of the BLM, Redding Field Office.

T. 12 N., R. 10 E.—Supplemental plat of the E½ of section 2, accepted September 23, 1998, to meet certain administrative needs of the BLM, Folsom Field Office.

T. 4 N., R. 24 E.—Dependent resurvey, subdivision of sections, and metes-and-bounds survey, (Group 1112) accepted September 23, 1998, to meet certain administrative needs of the U.S. Forest Service, Toiyabe National Forest.

San Bernardino Meridian, California

T. 1 N., R. 18 W.—Metes-and-bounds survey, (Group 1093) accepted April 14, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

T. 3 S., R. 15 E.—Supplemental plat of section 31, accepted April 23, 1998, to meet certain administrative needs of BLM, California Desert District, Palm Springs-South Coast Field Office.

T. 1 S., R. 20 W.—Dependent resurvey, subdivision of section 16, and metes-and-bounds survey, (Group 1111) accepted June 3, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

Tps. 1 and 2 N., R. 18 W.—Dependent resurvey and metes-and-bounds survey, (Group 1093) accepted June 16, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

T. 1 S., R. 20 W.—Dependent resurvey and subdivision of section 13, (Group 1111) accepted June 24, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

T. 1 S., R. 10 E.—Dependent resurvey and metes-and-bounds survey of tract 37, (Group 1278) accepted July 1, 1998, to meet certain administrative needs of the BLM, California Desert District, Ridgecrest Field Office.

T. 8 S., R. 2 W.—Dependent resurvey and subdivision of fractional section 23, (Group 1132) accepted July 10, 1998, to meet certain administrative needs of the Bureau of Indian Affairs, Southern California Agency.

T. 1 S., R. 17 W.—Dependent resurvey and metes-and-bounds survey, (Group 1210) accepted July 20, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

T. 1 S., R. 19 W.—Dependent resurvey and metes-and-bounds survey, (Group 1222) accepted July 28, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

T. 1 N., R. 17 E.—Dependent resurvey and metes-and-bounds survey of tract 37, (Group 1297) accepted August 5, 1998, to meet certain administrative needs of the BLM, California Desert District, Ridgecrest Field Office.

T. 3 S., R. 15 E—Supplemental plat, accepted August 21, 1998, to meet certain administrative needs of the BLM, California Desert District, Palm Springs-South Coast Field Office.

T. 1 S., R. 20 W.—Metes-and-bounds survey, (Group 1111) accepted August 24, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

T. 5 S., R. 14 E.—Dependent resurvey, subdivision of sections 12 and 13, and metes-and-bounds survey of tract 37, accepted September 1, 1998, to meet certain administrative needs of the BLM, California Desert District, Palm Springs-South Coast Field Office.

T. 1 S., R. 19 W.—Dependent resurvey and informative traverse, (Group 987) accepted September 4, 1998, to meet certain administrative needs of the National Park Service, Santa Monica Mountains National Recreation Area.

T. 11 N., R. 10 W.—Supplemental plat of the south ½ of section 28, accepted September 28, 1998, to meet certain administrative needs of the BLM, California Desert District, Barstow Field Office.

T. 11 N., R. 10 W.—Supplemental plat of the NE ¼ of section 34, accepted September 28, 1998, to meet certain administrative needs of the BLM, California Desert District, Barstow Field Office.

T. 10 N., R. 25 W.—Dependent resurvey, and subdivision of sections, (Group 1051) accepted September 28, 1998, to meet certain administrative needs of the BLM, Bakersfield Field Office.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: September 30, 1998.

Lance J. Bishop,

Chief, Branch of Geographic Services.

[FR Doc. 98–27118 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–942–08–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: Robert H. Thompson, Acting Chief, Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, Nevada 89520, 702–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on July 16, 1998:

The plat, representing the dependent resurvey of the Eighth Standard Parallel North, through a portion of Range 23 East, the east boundary, portions of the west and north boundaries, and the subdivisional lines of Township 41 North, Range 23 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 680, was accepted July 14, 1998. This survey was executed to meet certain needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada on September 17, 1998:

The plat, in two (2) sheets, representing the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, and the subdivision of section 13, Township 39 North, Range 26 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 765, was accepted September 15, 1998.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

3. The Plat of Survey of the following described lands was officially filed at

the Nevada State Office, Reno, Nevada on September 17, 1998:

The plat, in four (4) sheets, representing the dependent resurvey of portions of the south, west and north boundaries, and a portion of the subdivisional lines, and the subdivision of certain sections, Township 39 North, Range 27 East, of the Mount Diablo Meridian, in the State of Nevada, under Group No. 765, was accepted September 15, 1998.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

4. The above-listed surveys are now the basic records for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: September 30, 1998.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 98–27115 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

National Park Service

Canyonlands National Park; Concession permit rounds.

AGENCY: National Park Service

ACTION: Public notice.

SUMMARY: Notice is hereby given that the National Park Service proposes to award five (5) concession permits authorizing continued operation of multiple day guided interpretive backcountry mountain bike tours and vehicle support services in Canyonlands National Park, and guided interpretive backcountry mountain bike tours lasting for one day or less in the Island in the Sky District of Canyonlands National Park for the public for a period of four (4) years from January 1, 1999, through December 31, 2002.

EFFECTIVE DATES: Offers will be accepted for sixty (60) days under the terms described in the Prospectus. The sixty (60) day application period will begin with the release of the Prospectus, which will occur within thirty (30) days after date of publication in the **Federal Register**. The actual release date of the Prospectus shall be the date of publication in the "Commerce Business Daily."

ADDRESSES: Interested parties should contact the Superintendent, Canyonlands National Park, 2282 South West Resource Blvd., Moab, Utah 84532, to obtain a copy of the Prospectus describing the requirements of the proposed permits.

SUPPLEMENTARY INFORMATION: These permit renewals have been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

Each existing concessioner has performed its obligations to the satisfaction of the Secretary under the existing permits that expire by limitation of time on December 31, 1998.

Therefore, pursuant to the provisions of the Concessions Policy Act (79 Stat. 969; 16 U.S.C. 20d), the concessioner is entitled to be given preference in the renewal of the permit and in the award of a new permit, providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the permit will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner with a responsive offer will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the permit will be awarded to the existing concessioner.

If the existing concessioner does not submit a responsive offer, the right of preference in renewal shall be considered to have been waived, and the permit will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all offers received as a result of this notice. Any offer, including that of the existing concessioners, must be received by the Superintendent, Canyonlands National Park, 2282 South West Resource Blvd., Moab, Utah 84532, no later than sixty (60) days following release of the Prospectus to be considered and evaluated.

Dated: October 2, 1998.

Michael D. Snyder,

Deputy Regional Director, Rocky Mountain Intermountain Region.

[FR Doc. 98–27225 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Concession Contract Award; Glacier National Park

AGENCY: National Park Service.

ACTION: Public Notice.

SUMMARY: Notice is hereby given that the National Park Service proposes to award a concession contract authorizing operation of accommodations, facilities, and services at Granite Park and Sperry Chalets in Glacier National Park for the public for a period of five (5) years from January 1, 1999, through December 31, 2003.

EFFECTIVE DATE: Offers will be accepted for sixty (60) days under the terms described in the prospectus. The sixty (60) day application period will begin with the release of the prospectus, which will occur within thirty (30) days after date of publication in the **Federal Register**. The actual release date of the prospectus shall be the date of publication in the "Commerce Business Daily."

ADDRESSES: Interested parties should contact the Concessions Manager, Glacier National Park, West Glacier, Montana 59936, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The previous concessioner performed its obligations to the satisfaction of the Secretary under a pervious contract until 1992. Therefore, pursuant to the provisions of the Concessions Policy Act (79 Stat. 969; 16 U.S.C. § 20d), the concessioner is entitled to be given preference in the renewal of the contract and in the award of a new contract, providing that the previous concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the previous concessioner, then the previous concessioner will be afforded the opportunity to match the best offer. If the previous concessioner agrees to match the best offer, then the contract will be awarded to the previous concessioner.

If the previous concessioner does not submit a responsive offer, the right of preference in renewal shall be

considered to have been waived, and the contract will then be awarded to the party that has submitted the best responsive offer.

The Secretary will consider and evaluate all offers received as a result of this notice. Any offer, including that of the previous concessioner, must be received by the Superintendent, Glacier National Park, West Glacier, Montana 59936, no later than sixty (60) days following release of the prospectus to be considered and evaluated.

Dated: October 2, 1998.

Michael D. Snyder,

Deputy Regional Director, Rocky Mountain Intermountain Region.

[FR Doc. 98–27226 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Preservation Technology and Training Board: Meeting

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of meeting of the National Preservation Technology and Training Board.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on November 2, 3, and 4, 1998, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training, as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet on the campus of Northwestern State University of Louisiana in the Board Room of the Louisiana School for Math, Science and the Arts at 715 College Street, Natchitoches, Louisiana. Matters to be discussed will include, officer and committee reports; Northwestern University report; staff program updates; the establishment of non-Federal support for the Center's programs; budget review; grant program, cooperating organizations, task force reports on NCPTT development and systems, and Millenium projects.

Monday, November 3 the meeting will start at 10 a.m. and end at 5 p.m. On Tuesday, November 4 the meeting will start at 8:30 a.m. and end at 5 p.m. On Wednesday, November 5, the meeting will be begin at 8:30 a.m. and end at 11:30 a.m. Meetings will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with Dr. Elizabeth A. Lyon, Chair, National Preservation Technology and Training Board, PO Box 1269, Flowery Branch, Georgia 30542.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may do so by contacting Mr. E. Blaine Cliver, Chief, HABS/HAER, National Park Service, 1849 C Street NW, Washington, DC 20240, telephone: (202) 343–9573. Draft summary minutes of the meeting will be available for public inspection about eight weeks after the meeting at the office of the Preservation Assistance Division, Suite 200, 800 North Capitol Street, Washington, DC.

Dated: October 5, 1998.

E. Blaine Cliver,

Chief, HABS/HAER, Designated Federal Official, National Park Service.

[FR Doc. 98–27275 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Meeting of the Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, WA

AGENCY: Bureau of Reclamation, Department of the Interior.

ACTION: Notice of meeting.

SUMMARY: As required by the Federal Advisory Committee Act, notice is hereby given that the Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington established by the Secretary of the Interior, will hold a public meeting. The purpose of the Conservation Advisory Group is to provide technical advice and counsel to the Secretary and the State on the structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

DATES: Thursday, October 15, 1998, 9 a.m.–4 p.m.

ADDRESSES: Bureau of Reclamation Office, 1917 Marsh Road, Yakima, Washington.

FOR FURTHER INFORMATION CONTACT: James Esget, Manager, Yakima River Basin Water Enhancement Project, P.O. Box 1749, Yakima, Washington 98907; (509) 575–5848, extension 267.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review the Bureau of Reclamation's water acquisition process and procedures and develop recommendations on the process to facilitate voluntary sale or lease of water. Progress Reports will be provided on the Basin Conservation Plan and the Yakima River Basin Wetlands and Floodplain Habitat Plan.

Dated: October 1, 1998.

Loren Kjeldgaard,

Acting Area Manager.

[FR Doc. 98–27123 Filed 10–8–98; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on August 5, 1998, Ansys Diagnostics, Inc., 25200 Commercentre Drive, Lake Forest, California 92630, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (PCC) (8603).	II
Benzoylecgonine (9180)	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 8, 1998.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 98–27100 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on June 3, 1998, Calbiochem-Novabiochem Corporation, 10394 Pacific Center Court, Attn: Receiving Inspector, San Diego, California 92121–4340, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances to make reagents for distribution to the biomedical research community.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 9, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27101 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 11, 1998, Chiragene, Inc., 7 Powder Horn Drive, Warren, New Jersey 07059, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
2,5-Dimethoxyamphetamine (7396).	I
Phenylacetone (8501)	II

The firm plans to import the phenylacetone to manufacture amphetamine and the 2,5-dimethoxyamphetamine for distribution.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 9, 1998.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27102 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 20, 1998, Hoffmann-LaRoche, Inc., 240 Kingsland Street, Nutley, New Jersey 07110, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of levorphanol (9220), a

basic class of controlled substance listed in Schedule II.

The firm plans to manufacture the finished product for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 8, 1998.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27103 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 2, 1998, Johnson Matthey, Inc., Custom Pharmaceuticals Department, 2003 Nolte Drive, West Deptford, New Jersey 08066, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of methamphetamine (1105), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture methamphetamine in bulk form for distribution to finished dosage manufacturers.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 8, 1998.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27104 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 20, 1998, Norac Company, Inc., 405 S. Motor Avenue, Azusa, California 91702, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of Tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture medication for the treatment of AIDS wasting syndrome and as an antiemetic.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 8, 1998.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27105 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on July 28, 1998, Nycomed, Inc., 33 Riverside Avenue, Rensselaer, New York 12144, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methylphenidate (1724)	II
Meperidine (9230)	II

The firm plans to manufacture meperidine as bulk product for distribution to its customers and to perform a chemical isolation process on methylphenidate which has been manufactured by another bulk manufacturer of methylphenidate.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 8, 1998.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27106 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 30, 1998, and published in the **Federal Register** on July 9, 1998 (63 FR 37138), Radian International LLC, 14050 Summit Drive #121, P.O. Box 201088, Austin, Texas 78720–1088, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
E-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
4-Methylaminorex (cis isomer) (1590).	I
Methaqualone (2565)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I

Drug	Schedule
3,4,5-Trimethoxyamphetamine (7390).	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
4-Bromo-2,5-dimethoxyphenethylamine (7392).	I
4-Methyl-2,5-dimethoxyamphetamine (7395).	I
2,5-Dimethoxyamphetamine (7396).	I
2,5-Dimethoxy-4-ethylamphetamine (7399).	I
3,4-Methylenedioxyamphetamine (7400).	I
5-Methoxy-3,4-methylenedioxyamphetamine (7401).	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Bufotenine (7433)	I
Diethyltryptamine (7434)	I
Dimethyltryptamine (7435)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Codeine-N-oxide (9053)	I
Dihydromorphine (9145)	I
Heroin (9200)	I
Morphine-N-oxide (9307)	I
Normorphine (9313)	I
Pholcodine (9314)	I
Acetylmethadol (9601)	I
Allyprodine (9602)	I
Alphacetylmethadol except Levo-Alphacetylmethadol (9603).	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Betcetylmethadol (9607)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Hydromorphinol (9627)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Trimeperidine (9646)	I
Para-Fluorofentanyl (9812)	I
3-Methylfentanyl (9813)	I
Alpha-methylfentanyl (9814)	I
Acetyl-alpha-methylfentanyl (9815).	I
Beta-hydroxyfentanyl (9830)	I
Beta-hydroxy-3-methylfentanyl (9831).	I
Alpha-Methylthiofentanyl (9832)	I
3-Methylthiofentanyl (9833)	I
Thiofentanyl (9835)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenmetrazine (1631)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Glutethimide (2550)	II
Nabilone (7379)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
1-Piperidinocyclohexanecarbonitrile (8603).	II
Alphaprodine (9010)	II
Cocaine (9041)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levomethorphan (9210)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone-intermediate (9254)	II
Morphine (9300)	II
Levo-alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Alfentanil (9737)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The firm plans to manufacture small quantities of the listed controlled substances to make deuterated and non-deuterated drug reference standards which will be distributed to analytical and forensic laboratories for drug testing programs.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Radian International LLC to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Radian International LLC on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27097 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated June 24, 1998, and published in the **Federal Register** on July 9, 1998, (63 FR 37140), Sigma-Aldrich Research Biochemicals, Inc., One Three Strathmore Road, Attn: Richard A. Milius, PhD, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Ibogaine (7260)	I
Tetrahyhdrocannabinols (7370)	I
Bufotenine (7433)	I
Dimethyltryptamine (7435)	I
Etorphine (except HC1) (9056)	I
Methylphenidate (1724)	II
Pentobarbital (2270)	II
Diprenorphine (9058)	II
Etorphine Hydrochloride (9059)	II
Diphenoxylate (9170)	II
Metazocine (9240)	II
Methadone (9250)	II
Fentanyl (9801)	II

The firm plans to import small quantities of the listed controlled substances to manufacture laboratory reference standards and neurochemicals.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Sigma-Aldrich Research Biochemicals, Inc. to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Sigma-Aldrich Research Biochemicals, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic

classes of controlled substances listed above.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27099 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.33(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on September 15, 1998, Research Biochemicals, Inc., Limited Partnership, Attn: Richard Milius, 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by letter to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of cocaine (9041), a basic class of controlled substance listed in Schedule II.

The firm plans to manufacture small quantities of a derivative of cocaine.

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the proposed registration.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 8, 1998.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27107 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated June 10, 1998, and published in the **Federal Register** on July 9, 1998, (63 FR 37140), Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse and other clients.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Research Triangle Institute to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Research Triangle Institute on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: October 1, 1998.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–27098 Filed 10–8–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of September, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–34,820; General Electric Co., Power Systems Plant, Fitchburg, MA

TA–W–34,709; Gilbert & Bennett Manufacturing Co., Blue Island, IL

TA–W–34,902; Durham 2000 Corp., Danville, VA

TA–W–34,614; Champion International, Hamilton, OH

TA–W–34,790; Aluminum Conductor Products Corp., Vancouver, WA

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–34,952; The Banana Tree, El Paso, TX

TA–W–34,941; Nu-Kote International, Arizona Warehouse, Nogales, AZ

TA–W–34,842; Marwi USA, Inc., Olney, IL

TA–W–34,964; Rhone-Poulenc AG Co., Inc., Research Triangle Park, NC

TA–W–34,979; Scranton Export Clothing Co., Inc., Scranton, PA

TA–W–34,899; Matsushita Electric Corp of America, Matsushita Television Co., San Diego, CA

TA–W–34,958 & A; El and El Novelty Co., Linden, NJ and New York, NY

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–34,942; U.S. Reduction Co., Toledo, OH

TA–W–34,940; Briggs and Stratton Corp., Wauwatosa, WI
TA–W–34,797; Dayco Swan, Mark IV Automotive Div., Automotive Business Unit, Bucyrus, OH
TA–W–34,813; Susan Lazar, Inc., New York, NY
TA–W–34,734; Johnson Controls, Inc., Automotive Systems Group, Greenfield, OH
TA–W–34,907; Sweet-Orr & Co., Inc., Dawsonville, GA
TA–W–34,646; LAM Research, Inc., Wilmington, MA
TA–W–34,972; Food Service Specialties, Columbus, WI
TA–W–34,703; Eagle Moulding Co., Dorris, CA
TA–W–34,803; United Technologies Automotive, Bay City, MI
TA–W–34,789; Integrated Solutions, Inc., Allentown, PA
TA–W–34,890; Goslin-Birmingham, Birmingham, AL
TA–W–34,683; Topps Safety Apparel, Greensburg, KY

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–34, 480; Pennsylvania Textile Corp., West Hazleton, PA April 12, 1997
TA–W–34, 870; TechnoTrim, Glasgow, KY: August 3, 1997
TA–W–34, AlliedSignal, Inc., Aerospace Equipment Systems, Eatontown, NJ: July 24, 1997
TA–W–34, 894; Doris Jay, Miami, FL: August 4, 1997
TA–W–34, 875; W.S.W. Company of Sharon, Inc., Sharon, TN: August 3, 1997
TA–W–34, 654; Selmet, Inc., Albany, OR: May 28, 1997
TA–W–34, 905; Gear Fashions, Inc., d/b/a Hellas Fashions, Inc.,
TA–W–34, 788; Jaclyn, Inc., West New York, NJ: July 10, 1997
TA–W–34, 754; Union Special Corp., Charlotte Automated Systems Div., Charlotte, NC: June 15, 1997
TA–W–34, 814; North American Raycon Corp., Elizabeth, TN: September 7, 1998
TA–W–34, 786; NEPECO, Inc., Byron, WY: July 8, 1997
TA–W–34, 782; Seven Valleys Garment Co., Inc., Seven Valleys, PA: June 10, 1997
TA–W–34, 810; JMA Resources, Oklahoma City, OK: July 21, 1997
TA–W–34, 798; Sharplan Lassers, Warwick, RI: July 16, 1997
TA–W–34, 835; Lasting Products, Inc., Dallas, TX: July 20, 1997
TA–W–34, 963; Burlen Corp., Thomasville, GA: August 31, 1997
TA–W–34, 357; Boise Cascade Corp., Timber Div—Elgin Stud Mill, Elgin, OR: March 9, 1997
TA–W–34, 762; Dresser Oil Tools, Dallas, TX, Production and Sales Representative Operating at Various Locations in the Following States: A; MT, B; CA, C; KS, D; LA: July 6, 1997
TA–W–34. 955; Caza Drilling, Inc., North Dakota Operations, Headquartered in Williston, ND: August 26, 1997
TA–W–34, 817; Hanging Limb Apparel, Inc., Crawford, TN: July 17, 1997
TA–W–34, 930; Atlanta Manufacturing, A Div. of Atlanta Scientific, Inc., Norcross, GA Including Leased Workers From the Following Firms: Excel Technical Service, Duluth, GA, Norrell, Norcross, GA and Elite, Atlanta, GA: August 20, 1997
TA–W–34, 918; Quality Garment Co., Inc., West Union, WV: August 17, 1997
TA–W–34, 876; National Semiconductor Corp., Fort Collins, CO: August 13, 1997
TA–W–34, 891; AM-Cut, d/b/a American Knitting Mills, Opa-Locka, FL: July 20, 1997
TA–W–34, 931; Precise Polestar, Inc., State College, PA: August 10, 1996
TA–W–34, 552; IEC Edinburg, Edinburg, TX: May 7, 1997
TA–W–34, 903; EIS Brake Div. of Moog Automotive/Cooper Industries, Berlin, CT: July 22, 1997
TA–W–34, 566; Rosbro Plastics Co., Pawtucket, RI: May 6, 1997
TA–W–34, 874; Oshkosh B'Gosh, Inc., Gainesboro, TN: July 31, 1997
TA–W–34, 821; Uniroyal Engineered Proudcts, Port Clinton, OH: July 21, 1997
TA–W–34, 716; Ambler Industries, Orangeburg, SC: June 18, 1997
TA–W–34, 831; VF Jeanswear, Hackleburg, AL: July 29, 1997

Also, purusant to Title V of the North American Free Trade Agreement Implementation Act (Pub.L. 103–182) concering transitional adjustment assistance heareinafter called (NAFTA–TAA) and in accordance with section 250 (a), Subcharper D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of September, 1998.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–ATT the following group eligibility requirements of section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partically separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increased imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determinations NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–02492; Union Special Corp., Charlotte Automated Systems Div., Charlotte, NC
NAFTA–TAA–02599; Food Service Specialities, Columbus, WI
NAFTA–TAA–02590; Dean Lumber Co., Sawmill Div., Gilmer, TX
NAFTA–TAA–02564; Sweet-Orr & Co., Inc., Dawsonville, GA
NAFTA–TAA–02536; Marwi USA, Inc., Olney, IL
NAFTA–TAA–02474; Johnson Controls, Inc., Automotive Systems Group, Greenfield, OH
NAFTA–TAA–02550; Durham 2000 Corp., Danville, VA
NAFTA–TAA–02585; Dayco Swan, Mark IV Automotive Div., Automotive Business Unit, Bucyrus, OH
NAFTA–TAA–02593; Burlen Corp., Thomasville, GA

NAFTA–TAA–02543; RSI Home Products, General Marble, Lincolnton, NC
NAFTA–TAA–02468; Pennsylvania Textile Corp., West Hazelton, PA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–02591; Nu-Kote International, Arizona Warehouse, Nogales, AR
NAFTA–TAA–02513; Crump-Wilson-Shields Commission Co., Livestock Wholesalers, National Stockyards, IL
NAFTA–TAA–02514, Coats American Inc., Regional Distribution Center, El Paso, TX
NAFTA–TAA–02489; Control Elements, Inc., Portland, OR
NAFTA–TAA–02609; Scranton Export Clothing Co., Inc., Scranton, PA
NAFTA–TAA–02573; American and Elfird, Inc., El Paso, TX

The investigation revealed that the workers of the subject firm did not produce an article within the meaning of section 250(a) of the Trade Act, as amended.

NAFTA–TAA–02547; Florsheim Group, Inc., Cape Girardeau, MO

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) did not become totally or partially separated from employment.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–02537; Lasting Products, Inc., Farmers Branch, TX: July 20, 1997
NAFTA–TAA–02557; Oshkosh B'Gosh, Inc., Gainesboro, TN: July 24, 1997
NAFTA–TAA–02534; Kay Tronic Corp., Spokane, WA Including Leased Workers of Humanix Temporary Services, Interim Services, Inc., and Volt Services Group, Spokane, WA: July 17, 1997
NAFTA–TAA–02586; Precise Polestar, Inc., State College, PA: July 31, 1997
NAFTA–TAA–02537; Lasting Products, Inc., Dallas, TX: July 20, 1997
NAFTA–TAA–02464; International Jensen, Inc., Lumberton Assembly Plant, Lumberton, NC: June 24, 1997
NAFTA–TAA–02568; Cablelink, Inc., Kings Mountain, NC: July 14, 1997
NAFTA–TAA–02490; TKC Apparel, Inc., Reidsville, GA: July 6, 1997

I hereby certify that the aforementioned determinations were issued during the month of September 1998. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: October 2, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27205 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Acting Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title III, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 19, 1998.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Acting Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 19, 1998.

The petitions filed in this case are available for inspection at the Office of the Acting Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 21st day of September, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

APPENDIX—PETITIONS INSTITUTED ON 09/21/1998

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,970	Bayer Corp (The) (OCAW)	Houston, TX	09/14/1998	Bayren—Synthetic Rubber.
34,971	Zilog, Inc (Wrks)	Nampa, ID	09/10/1998	Computer Chips.
34,972	Food Service Specialities (Wrks)	Red Wing, MN	09/01/1998	Tomato Sauces and Paste.
34,973	Gem State Lumber (Wrks)	Juliaette, ID	09/09/1998	Dimension Lumber.
34,974	Essex Mfg. (UNITE)	Fall River, MA	09/03/1998	Ladies' Coats.
34,975	Osram Sylvania, Inc (Wrks)	Wellsboro, PA	08/28/1998	Glass Envelopes for Lighting Products.
34,976	Excel Garment Mfg (Comp)	EL Paso, TX	08/26/1998	Seq Casual Apparel.
34,977	IEC Electronics (Wrks)	Arab, AL	08/31/1998	PC Boards.
34,978	Remington Products Co (Comp)	Bridgeport, CT	09/02/1998	Electric Shavers.
34,979	Scranton Export Clothing (UNITE)	Scranton, PA	08/31/1998	Wiping Cloths, Rags.
34,980	Ogden Atlantic Design (Wrks)	Charlotte, NC	08/26/1998	Resistors, Caps, Headers, Connectors.
34,981	Forman Box and Display (Wrks)	New York, NY	09/03/1998	Boxes for Jewelry & Jewelry Display.
34,982	Sensus Tech., Inc (USWA)	Uniontown, PA	08/17/1998	Water Meters.
34,983	Intercontinental Branded (Comp)	Buffalo, NY	09/08/1998	Men's Suits and Sportcoats.
34,984	Cleveland Electric Illum. (UWUA)	Independence, OH	09/04/1998	Electricity.
34,985	Bernstein and Sons Shirt (Wrks)	Utica, MS	09/01/1998	Men's and Ladies' Knit Shirts.
34,986	Russell Corp—Slocomb (Comp)	Slocomb, AL	08/25/1998	Sweatshirts, Sweatpants & T-Shirts.

APPENDIX—PETITIONS INSTITUTED ON 09/21/1998—Continued

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
34,987	Russell Corp—Columbus (Comp)	Midland, GA	08/25/1998	Sweatshirts, Sweatpants & T-Shirts.
34,988	Russell Corp—Sewing (Comp)	Marianna, FL	08/25/1998	Sweatshirts Sweatpants & T-Shirts.
34,989	Bobbie Casual Co (Wrks)	Pacoima, CA	09/03/1998	Blue Jeans.
34,990	Synary, Inc (Wrks)	New York, NY	08/21/1998	Apparel Patterns.
34,991	Sappi Fine Papers N.A. (IBEW)	Westbrook, ME	09/09/1998	Speciality Paper.
34,992	Halliburton Energy Serv. (Wrks)	Midland, TX	09/04/1998	Oil and Gas Services.
34,993	Electro-Mechanical Prod. (Comp)	Owosso, MI	08/27/1998	Precision Electronic Assemblies.
34,994	Naxos of America, Inc (Wrks)	Pennsauken, NJ	08/31/1998	Recorded Compact Discs.
34,995	EMC Technology (Wrks)	Cherry Hill, NJ	09/01/1998	Small Ceramic Discs.
34,996	Fleer Confections (Comp)	Byhalia, MS	09/03/1998	Gum and Other Confectionary Products.
34,997	Hudson I.C.S. (Comp)	San Leandro, CA	09/08/1998	Wood Casings for Pencils.
34,998	PCC Merriman (IAMAW)	Hingham, MA	09/08/1998	Metal Gears, Rings.
34,999	Siebe Automotive—Algood (Comp)	Algood, TN	09/15/1998	Automotive Thermostats.
35,000	Santa's Best (Comp)	Millville, NJ	09/08/1998	Christmas Stockings & Santa Hats.

[FR Doc. 98–27208 Filed 10–8–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,357; TA–W–34,357A]

Boise Cascade Corporation Timber Division—Elgin Stud Mill Elgin, Oregon; Timberland Department La Grande, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 24, 1998, applicable to all workers of Boise Cascade Corporation, Timber Division—Elgin Stud Mill, Elgin, Oregon. The notice will be published soon in the **Federal Register**.

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations will occur at the subject firm's Timberland Department, La Grande, Oregon facility. The workers provide forestry services to support the production of lumber at Boise Cascade Corporation, including the Elgin Stud Mill.

Accordingly, the Department is amending the certification to cover workers at Boise Cascade Corporation, Timberland Department, La Grande, Oregon. The intent of the Department's certification is to include all workers of Boise Cascade adversely affected by increased imports.

The amended notice applicable to TA–W–34,357 is hereby issued as follows:

"All workers of Boise Cascade Corporation, Timber Division—Elgin Stud Mill, Elgin, Oregon (TA–W–24,357) and the Timberland Department, La Grande, Oregon (TA–W–34,357A) who became totally or partially separated from employment on or after March 9, 1997 through March 24, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington DC this 28th day of September, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27210 Filed 10–8–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,695]

Energizer Power Systems, Eveready Battery Company, Gainesville, FL; Amended Certification Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the U.S. Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 28, 1998 applicable to all workers of Energizer Power Systems located in Gainesville, Florida. The notice was published in the **Federal Register** on September 28, 1998 (63 FR 51605).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of rechargeable batteries. Company information shows that Eveready Battery Company is the parent firm of Energizer Power Systems located in Gainesville, Florida, New information provided by the State shows that some workers separated from employment at Energizer Power Systems had their wages reported under a separate unemployment insurance (UI) tax account at Eveready Battery Company, also located in Gainesville, Florida. Based on these findings, the Department is amending the certification to include workers from Eveready Battery Company.

The intent of the Department's certification is to include all workers of Energizer Power Systems who were adversely affected by increased imports of rechargeable batteries.

The amended notice applicable to TA–W–34,695 is hereby issued as follows:

"All workers of Energizer Power Systems and Eveready Battery Company, Gainesville, Florida who became totally or partially separated from employment on or after June 12, 1997 through August 28, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington D.C. this 29th day of September, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27209 Filed 10–8–98; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34, 486]

Trult of the Loom, Inc. Contract Business Department Bowling Green, Kentucky; Notice of Revised Determination on Reopening

On September 8, 1998, the Department, on its own motion, reopened its investigation for workers and former workers of the subject firm engaged in technical support for Fruit of the Loom's overseas contractor operations.

The initial investigation resulted in a negative determination issued on June 3, 1998, because the workers provided a service and did not produce an article within the meaning of Section 222(3) of the Trade Act of 1974. The notice was published in the **Federal Register** on July 13, 1998 (63 FR 37590).

New information submitted to the Department reveals that certain workers in the Contract Business Department of Fruit of the Loom located in Bowling Green, Kentucky provided support activities related to the company's decision to increase reliance upon foreign contractors. As such, the workers' separations following the completion of these support activities were also related to the company's increased reliance on imports. All such separations of workers occurred between January 1, 1998 and June 30, 1998.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with apparel produced by the subject firm contributed importantly to the decline in sales and to the total or partial separation of workers of the subject firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Fruit of the Loom, Inc., Contract Business Department, Bowling Green, Kentucky who became totally or partially separated from employment on or after January 1, 1998 and before June 30, 1998 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 22nd day of September 1998.

Gramt D. Beale.

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27215 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,286A]

Hasbro Manufacturing Services, Amsterdam, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 16, 1998, applicable to all workers of Hasbro Manufacturing Services located in Amsterdam, New York. The notice was published in the **Federal Register** on May 6, 1998 (63 FR 25082).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce toys. New findings show that the workers at the subject firm were covered under a certification, TA–W–31,969, that did not expire until midnight April 17, 1998. To avoid a one day overlap in coverage for the Amsterdam worker group, the Department is amending the impact date for TA–W–34,286A from April 17, 1998 to April 18, 1998.

The amended notice applicable to TA–W–34,286A is hereby issued as follows:

All workers of Hasbro Manufacturing Services, Amsterdam, New York, who became totally or partially separated from employment on or after April 18, 1998 through April 16, 2000, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of September 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27212 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,373]

Key Tronic Corporation including Leased Workers of Humanix Personnel Services Interim Services, incorporated Volt Services Group Spokane, Washington; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a certification of Eligibility to Apply for Worker Adjustment Assistance on April 17, 1998, applicable to all workers of Key Tronic Corporation located in Spokane, Washington. The notice was published in the **Federal Register** on May 6, 1998 (63 FR 25082).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the company official shows that some workers of Key Tronic Corporation were leased from Humanix Personnel Services, Interim Services, Incorporated and Volt Services Group, Spokane, Washington to produce computer keyboards and related peripherals at the Spokane, Washington facility. Based on these findings, the Department is amending the certification to include leased workers from Humanix Personnel Service, Interim Services, Incorporated, and Volt Services Group, Spokane, Washington.

The intent of the Department's certification is to include all workers of Key Tronic Corporation adversely affected by imports.

The amended notice applicable to TA–W–34, 373 is hereby issued as follows:

All workers of Key Tronic Corporation, Spokane, Washington and leased workers of Humanix Personnel Services, Interim Services, Incorporated, and Volt Services Group, Spokane, Washington engaged in employment related to the production of computer keyboards and related peripherals for Key Tronic Corporation at Spokane, Washington who became totally or partially separated from employment on or after March 26, 1998 through April 17, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 25th day of September, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27213 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,724]

Nazdar, Chicago, IL; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of August 26, 1998 the petitioner requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to petition number TA–W–34,724. The denial notice was signed on August 8 and published in the **Federal Register** on August 28, 1998 (63 FR 46073).

The petitioner alleges that the customer survey undertaken by the Department did not reflect declining customers and provided additional information which warrants reconsideration of the case.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted. Signed at Washington, D.C. this 21st day of September, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27214 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,393]

Norty's Incorporated, Kutztown, PA; Amended Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on May 6, 1998, applicable to all workers of Norty's Incorporated, New York, New York. The notice was published in the **Federal Register** on May 29, 1998 (63 FR 29430).

At the request of the State agency, the Department reviewed the negative determination for workers of the subject firm. New findings show that the Department incorrectly identified the subject firm location. The investigation conducted for the subject firm was conducted on behalf of workers engaged in buying and reselling women's apparel located in Kutztown, Pennsylvania. New York, New York is the Administrative Services office of the subject firm and is not the subject of the investigation. The Department is amending the negative determination to correctly identify the city and state to read Kutztown, Pennsylvania.

Conclusion

After careful review, I determine that all workers of Norty's Incorporated, Kutztown, Pennsylvania are denied eligibility to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, DC this 23rd day of September, 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27216 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,779]

Philadelphia, Bethlehem & New England Railroad, Bethlehem, PA; Notice of Revised Determination on Reopening

On August 19, 1998, the Department issued a Negative Determination Regarding Eligibility to apply for worker adjustment assistance, applicable to workers and former workers of the Pennsylvania, Bethlehem & New England (PBNE) Railroad, Bethlehem, Pennsylvania. The notice was published in the **Federal Register** on September 10, 1998 (63 FR 48524).

By letter of September 8, 1998, the United Transportation Union requested administrative reconsideration regarding the Department's denial. New information provided by the Union and confirmed by the company indicates that the Philadelphia, Bethlehem & New England Railroad is a wholly owned subsidiary of Bethlehem Steel Corporation, and the railroad was providing transportation services to the Coke Oven Division of the Bethlehem Steel Corporation. As stated in the August 19, 1998 Notice of Negative Determination, workers at Philadelphia, Bethlehem & New England Railroad "may be certified only if their separation was caused importantly by a reduced demand for their services from a parent company, a firm otherwise related to the subject firm by ownership, or a firm related by control." Further, "the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification, and the reduction must directly relate to the product impacted by imports."

Workers at Bethlehem Steel Corporation's Coke Oven Division in Bethlehem, Pennsylvania were certified eligible to apply for trade adjustment assistance on March 24, 1998 (TA–W–34,245). Workers at Philadelphia, Bethlehem & New England Railroad provided transportation services to the Bethlehem Coke Oven Division in Bethlehem, Pennsylvania. Thus, since there is an existing certification for eligibility for trade adjustment assistance benefits for workers at a production facility which is affiliated by ownership with the Pennsylvania, Bethlehem & New England Railroad, the test for certification has been met. The workers are not separately identifiable by product line.

Conclusion

After careful review of the additional facts obtained on reopening, I conclude that increased imports contributed importantly to the total or partial separation of workers of the Philadelphia, Bethlehem & New England Railroad, Bethlehem, Pennsylvania. In accordance with the provisions of the Act, I make the following certification:

All workers of the Philadelphia, Bethlehem & New England Railroad of Bethlehem, Pennsylvania, who became totally or partially separated from employment on or after July 13, 1997 are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 24th day of September 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98–27211 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-34,700]

Willamette Industries Saginaw Lam Plant Saginaw, Oregon; Notice of Revised Determination on Reconsideration

On August 26, 1998, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice was published in the **Federal Register** on September 4, 1998 (63 FR 47328).

The Department initially denied TAA to workers of Willamette Industries, Saginaw Lam Plant, Saginaw, Oregon, producing laminated beams because the "contributed importantly" group eligibility requirement of Section 222(3) of the Trade Act of 1974, as amended, was not met.

On reconsideration, the Department conducted further survey analysis of major customers of Willamette Industries, Saginaw Lam Plant. The survey revealed that a former major customer reduced purchases of laminated beams from the Saginaw plant and increased purchases of imports of articles directly competitive to the laminated beams produced at the Saginaw plant.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with laminated beams, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Willamette Industries, Saginaw Lam Plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of Willamette Industries, Saginaw Lam Plant, Saginaw, Oregon who became totally or partially separated from employment on or after June 19, 1997 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed in Washington, DC this 28th day of September 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-27707 Filed 10-8-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA-02517]

W.T.D. Industries Central Saw Division, Corvallis, OR; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II of the Trade Act of 1974, as amended (19 USC 2331), an investigation was initiated on July 20, 1998, on behalf of a worker at W.T.D. Industries, Central Saw Division, Corvallis, Oregon.

During the course of the investigation it was revealed that the workers' were covered under an existing certification, NAFTA-02565. Therefore, further investigation would serve no purpose and the investigation has been terminated.

Signed in Washington, DC this 2nd day of October 1998.

Grant D. Beale,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 98-27206 Filed 10-8-98; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the 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, NW, Room S-3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA980001 (Feb. 13, 1998)
MA980002 (Feb. 13, 1998)
MA980003 (Feb. 13, 1998)
MA980005 (Feb. 13, 1998)
MA980007 (Feb. 13, 1998)
MA980008 (Feb. 13, 1998)
MA980010 (Feb. 13, 1998)
MA980012 (Feb. 13, 1998)
MA980013 (Feb. 13, 1998)
MA980014 (Feb. 13, 1998)
MA980015 (Feb. 13, 1998)
MA980017 (Feb. 13, 1998)
MA980018 (Feb. 13, 1998)
MA980019 (Feb. 13, 1998)
MA980020 (Feb. 13, 1998)
MA980021 (Feb. 13, 1998)
New York
NY980001 (Feb. 13, 1998)
NY980002 (Feb. 13, 1998)
NY980003 (Feb. 13, 1998)
NY980006 (Feb. 13, 1998)
NY980007 (Feb. 13, 1998)
NY980008 (Feb. 13, 1998)
NY980022 (Feb. 13, 1998)
NY980038 (Feb. 13, 1998)
NY980042 (Feb. 13, 1998)
NY980049 (Feb. 13, 1998)
NY980074 (Feb. 13, 1998)
NY980076 (Feb. 13, 1998)

Volume II

Pennsylvania
PA980002 (Feb. 13, 1998)
PA980007 (Feb. 13, 1998)
PA980008 (Feb. 13, 1998)
PA980009 (Feb. 13, 1998)
PA980012 (Feb. 13, 1998)
PA980014 (Feb. 13, 1998)
PA980023 (Feb. 13, 1998)
PA980024 (Feb. 13, 1998)
PA980052 (Feb. 13, 1998)
PA980054 (Feb. 13, 1998)
PA980063 (Feb. 13, 1998)
West Virginia
WV980002 (Feb. 13, 1998)
WV980003 (Feb. 13, 1998)

Volume III

Alabama
AL980008 (Feb. 13, 1998)
AL980017 (Feb. 13, 1998)
AL980042 (Feb. 13, 1998)
Tennessee
TN980001 (Feb. 13, 1998)
TN980002 (Feb. 13, 1998)
TN980003 (Feb. 13, 1998)
TN980005 (Feb. 13, 1998)
TN980017 (Feb. 13, 1998)
TN980040 (Feb. 13, 1998)
TN980041 (Feb. 13, 1998)
TN980042 (Feb. 13, 1998)
TN980043 (Feb. 13, 1998)
TN980044 (Feb. 13, 1998)
TN980045 (Feb. 13, 1998)
TN980046 (Feb. 13, 1998)
TN980048 (Feb. 13, 1998)
TN980058 (Feb. 13, 1998)
TN980062 (Feb. 13, 1998)

Volume IV

Indiana
IN980001 (Feb. 13, 1998)
IN980002 (Feb. 13, 1998)
IN980003 (Feb. 13, 1998)
IN980004 (Feb. 13, 1998)
IN980006 (Feb. 13, 1998)
Wisconsin
WI980041 (Feb. 13, 1998)

Volume V

Iowa
IA980004 (Feb. 13, 1998)
IA980005 (Feb. 13, 1998)

Volume VI

Alaska
AK980001 (Feb. 13, 1998)
AK980005 (Feb. 13, 1998)
Idaho
ID980003 (Feb. 13, 1998)
Montana
MT980002 (Feb. 13, 1998)
Oregon
OR980001 (Feb. 13, 1998)
OR980004 (Feb. 13, 1998)
OR980017 (Feb. 13, 1998)
Washington
WA980001 (Feb. 13, 1998)
WA980002 (Feb. 13, 1998)
WA980003 (Feb. 13, 1998)
WA980005 (Feb. 13, 1998)

Volume VII

California
CA980001 (Feb. 13, 1998)
CA980002 (Feb. 13, 1998)
CA980004 (Feb. 13, 1998)
CA980028 (Feb. 13, 1998)
CA980030 (Feb. 13, 1998)
CA980031 (Feb. 13, 1998)
CA980032 (Feb. 13, 1998)
CA980033 (Feb. 13, 1998)
CA980034 (Feb. 13, 1998)
CA980035 (Feb. 13, 1998)
CA980036 (Feb. 13, 1998)
CA980037 (Feb. 13, 1998)
CA980038 (Feb. 13, 1998)
CA980039 (Feb. 13, 1998)
CA980040 (Feb. 13, 1998)
CA980041 (Feb. 13, 1998)

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 Act." This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 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, DC this 1st day of October 1998.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 98–26862 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Notice of Meeting

Notice is hereby given of the date and location of the next meeting of the National Advisory Committee on Occupational Safety and Health (NACOSH), established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health Services on matters relating to the administration of the Act. NACOSH will hold a meeting on November 9 and 10, 1998, in Room N5437 A-D of the Department of Labor Building located at 200 Constitution Avenue NW, Washington, DC. The meeting is open to the public and will begin at 9:00 a.m. lasting until approximately 4:30 p.m. the first day, November 9. On November 10, the meeting will begin at 1:00 p.m. and last until approximately 4:00 p.m.

Agenda items will include: A brief overview of current activities of the Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational

Safety and Health (NIOSH), a discussion of international harmonization issues, updates on the National Occupational Research Agenda (NORA), training of CSHOs in the evaluation of safety and health programs, and implementation of the (11(c) task force report. Other subjects to be discussed include: a literature survey of incentive programs as well as the introduction of new staff and new committee members with a discussion of committee goals, operation and reports from workgroups.

Five new members have been appointed to NACOSH since the last meeting, and seven members have been reappointed, all for two-year terms. Four of the members are designated by the Department of Health and Human Services (HHS), and the other eight are designated by the Department of Labor (DOL). The HHS designees include: Public Representative and Chair Dr. Kathleen Rest, Assistant Professor, Occupational Health Programs, University of Massachusetts Medical Center (reappointment); Public Representative Dr. Daniel Hryhorczuk, Director, Great Lakes Center for Occupational and Environmental Safety and Health, University of Illinois at Chicago (new member); Health Representative Dr. Bonnie Rogers, Director of Public Health Nursing, and Associate Professor of Epidemiology at the University of North Carolina (new member); and Health Representative LaMont Byrd, Director of Safety and Health for the International Brotherhood of Teamsters (new member).

The eight members designated by DOL include: Public Representative Byron K. Orton, Iowa Commissioner of Labor (reappointment); Public Representative Nancy Lessin, Senior Staff for Strategy and Policy at Massachusetts COSH (reappointment); Management Representative Dr. Henry B. Lick, Corporate Manager of Industrial Hygiene, Ford Motor Company (reappointment); Management Representative Dennis Scullion, Manager of Audit for OxyChem's Corporate Safety Department (new member); Labor Representative Margaret (Peg) Seminario, Director of Occupational Safety and Health, AFL–CIO (reappointment); Labor Representative Michael J. Wright, Director of Health, Safety and Environment for United Steelworkers of America (reappointment); Safety Representative Margaret Carroll, Manager of Safety Engineering for Sandia National Labs (reappointment); and Safety Representative David J. Heller, Executive Director of Risk Management for U.S. West (new member).

Written data, views or comments for consideration by the Committee may be submitted, preferably with 20 copies, to Joanne Goodell at the address provided below. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting. Because of the need to cover a wide variety of subjects in a short period of time, there is usually insufficient time on the agenda for members of the public to address the Committee orally. However, any such requests will be considered by the Chair who will determine whether or not time permits. Any request to make an oral presentation should state the amount of time desired, the capacity in which the person would appear, and a brief outline of the content of the presentation. Individuals with disabilities who need special accommodations should contact Theresa Berry (phone 202–219–8615, extension 106; FAX: 202–219–5986) one week before the meeting.

An official record of the meeting will be available for public inspection in the OSHA Technical Data Center (TDC) located in Room N2625 of the Department of Labor Building (202–219–7500). For additional information contact: Joanne Goodell, Occupational Safety and Health Administration (OSHA); Room N–3641, 200 Constitution Avenue NW, Washington, DC, (phone: 202–219–8021, extension 107; FAX: 202–219–4383; e-mail joanne.goodell@osha-no.osha.gov).

Signed at Washington, D.C., this 30th day of September, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 98–27204 Filed 10–8–98; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–138)]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Aviation Operations Systems Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics and Space Transportation Technology Advisory Committee, Aviation Operations Systems Subcommittee meeting.

DATES: Tuesday, October 27, 1998, 8:30 a.m. to 4:30 p.m. and Wednesday, October 28, 1998, 8:30 a.m. to 4:30 p.m.

ADDRESSES: National Aeronautics and Space Administration, Langley Research Center, Building 1244, Room 223, Hampton, VA 23681–0001.

FOR FURTHER INFORMATION CONTACT: Dr. J. Victor Lebacqz, National Aeronautics and Space Administration, Ames Research Center, Moffett Field, CA 94035, 650/604–5792.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Aviation Operations Systems Review
—Aviation Safety Research Program
—Aviation Weather Information Element
—Measures of System Stability and Safety Element

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: October 2, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–27093 Filed 10–8–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–133)]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Life and Biomedical Sciences and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Life Sciences Advisory Subcommittee.

DATES: Wednesday, October 21, 1998, 8:30 a.m. to 5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration Headquarters, 300

E Street, SW, Program Review Center (PRC), Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Frank M. Sulzman, Code UL, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0220.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Action Status
—Update: Office of Life & Microgravity Sciences and Applications, Life Sciences Division
—Report of Ad Hoc Panel to Evaluate Peer Review
—Human Research Facility Update
—Biological Research Facility Update
—Performance Evaluation Overview
—Discussion of Committee Findings and Recommendations
—Subcommittee Report Review

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 21, 1998.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 98–27092 Filed 10–8–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Changes to the General Records Schedules; Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services—Washington, DC.

ACTION: Notice.

SUMMARY: This notice contains the proposed changes to the General Records Schedules which are issued by NARA to provide mandatory disposal authorities for temporary administrative records common to several or all Federal agencies (44 U.S.C. 3303a(d)). NARA is departing from its normal practice of publishing notice of availability of records schedules in this instance in order to accelerate the review process. This notice includes the rationale for the proposed changes, analogous to an appraisal report, as well as the full text of the proposed schedule. The rationale is based on Appendix D of the Electronic Records Work Group report to the Archivist of the United States. (The entire draft report, including Appendix D, was published in the **Federal Register** for comment on July 21; the final report is available on the NARA web site at <http://www.nara.gov/records/grs20>.) Consequently, this notice provides all available information for interested parties who may wish to comment.

DATES: Comments on these proposed changes must be received on or before November 9, 1998.

ADDRESSES: Comments may be sent electronically to the e-mail address <records.mgt@arch2.nara.gov>. If attachments are sent, please transmit them in ASCII, WordPerfect 5.1/5.2, or MS Word 6.0. Comments may also be submitted by mail to the Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, or by FAX to 301–713–6852 (attn: Marc Wolfe). In order for comments to be considered, the NARA registration number for this schedule—N1-GRS–98–3—must be included in a subject line or otherwise prominently stated.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: 301–713–7110. E-mail: <records.mgt@arch2.nara.gov>.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create millions of records on paper, film, magnetic tape, and other media. No Federal records are authorized for destruction without the approval of the Archivist of the United States. Two mechanisms are used to provide that approval—agency schedules and General Records Schedules. Agencies develop and submit to NARA for approval schedules for the records that are unique to the agency. Once approved by the Archivist, the agencies may apply the approved disposition authorities to the records for as long as they remain unchanged. To reduce the effort required of agencies in scheduling all their records, the National Archives and Records Administration issues General Records Schedules to provide disposal authorities for temporary administrative records that are common to several or all agencies.

This proposed schedule contains a new item to be added to General Records Schedules 1–16, 18, and 23, to authorize disposal of source records, regardless of physical format, used to generate the administrative records described elsewhere in those general schedules. The records generated from the source records are maintained in agency files or other recordkeeping systems.

The proposed change to the GRS was developed by the Electronic Records Work Group, an interagency group established by the Archivist of the United States in November 1997 to address electronic records disposition issues, including a revision of GRS 20, Electronic Records. The proposed new item is limited to the source records for the administrative records described in GRS 1–16, 18, and 23.

On July 21, 1998, NARA published a notice containing the entire text of the draft Work Group report in the **Federal Register** (63 FR 39195) and invited the public to submit comments within the next 30 days. The proposed changes to GRS 1–16, 18, and 23 were contained in Appendix D of the draft report.

Three Federal agencies and one public interest group commented on the substance of the proposed changes to the GRS 1–16, 18, and 23. One professional group found unclear language in the proposed change to the Introduction to the General Records Schedules. One of the Federal agencies found the description of the new item unclear; another suggested that the disposition instruction for the new item should refer to the EFOIA; and a third suggested that the disposition instruction be modified to provide that the electronic source record cannot be kept longer than the recordkeeping copy. The public interest group commented that the publication of the schedule (N1-GRS–98–3) as part of the appendix to the Work Group report did not comply with the Federal Records Act requirement for public comments on schedules. The public interest group also found the disposition instruction for the new item to be out of compliance with the Federal Records Act requirement that disposition instructions provide for disposal after a specified period of time.

In its final report to the Archivist, the Work Group made no change to the description of the proposed new GRS item, as the only respondent who found it unclear did not suggest alternative language. However, the Work Group did modify the proposed language of the Introduction to the General Records Schedules. In response to the comment from the public interest group, the second sentence from the proposed disposition instruction for the new GRS item was deleted, which rendered the suggestions made by the two Federal agencies moot.

In addition to comments on the proposed changes to the GRS, several respondents to the **Federal Register** notice requesting comments on the

Electronic Records Work Group draft report suggested clarification in the supporting documentation in Appendix D. In response to these comments, the Work Group made several editorial clarifications in Appendix D.

The Archivist of the United States has accepted the Work Group's recommendations for changing the GRS, with one modification. NARA did not adopt the term "electronic source records" for the new GRS item as proposed by the Work Group. The following schedule is NARA's proposal for modifying General Records Schedules 1–16, 18, and 23 to add an item covering source records.

Records Schedule N1–GRS–98–3

New Item to be Added to GRS 1–16, 18, And 23

Records Maintained Apart From a Recordkeeping System

Records, including electronic records, used to generate the records covered by the other items in this schedule which cover the records in an agency recordkeeping system. Includes records in all formats/media that are used as sources for the creation of the record maintained in a recordkeeping system, such as electronic records that remain on office automation systems after the record for the recordkeeping system has been produced.

Destroy/delete after the recordkeeping copy has been produced.

This item will be added to the General Records Schedules as indicated below:

1. GRS 1, Civilian Personnel Records, item 42
2. GRS 2, Payrolling and Pay Administration Records, item 31
3. GRS 3, Procurement, Supply, and Grant Records, item 18
4. GRS 4, Property Disposal Records, item 5
5. GRS 5, Budget Preparation, Presentation, and Apportionment Records, item 5
6. GRS 6, Accountable Officers' Accounts Records, item 12
7. GRS 7, Expenditure Accounting Records, item 5
8. GRS 8, Stores, Plant, and Cost Accounting Records, item 8
9. GRS 9, Travel and Transportation Records, item 6
10. GRS 10, Motor Vehicle Maintenance and Operation Records, item 8
11. GRS 11, Space and Maintenance Records, item 6
12. GRS 12, Communications Records, item 9
13. GRS 13, Printing, Binding, Duplication, and Distribution Records, item 7
14. GRS 14, Information Services Records, item 37
15. GRS 15, Housing Records, item 8
16. GRS 16, Administrative Management Records, item 15
17. GRS 18, Security and Protective Services Records, item 30
18. GRS 23, Records Common to Most Offices Within Agencies, item 10

In addition the following changes will be made to narrative sections of the GRS:

General Introduction to the GRS

Replace

"As provided in GRS 20, Electronic Records, the disposal instructions for most records in the remaining schedules are applicable to both hard copy and electronic versions of the records described. GRS 20 specifies several exceptions to this authority. In those cases, the electronic version of the file must be scheduled by submission of an SF 115 to NARA."

With

"The disposition authorities in GRS 1–16, 18, and 23, apply to records that contain the information described in the items in the schedule, regardless of the recording medium used to create or store the records. The specified retention periods apply to the records described in each item which are maintained in a recordkeeping system, regardless of the physical medium used to maintain the records. In addition, an item in each of those schedules provides authority for agencies to destroy/delete source records after a record has been produced for inclusion in the appropriate recordkeeping system."

New Paragraph to be Added to the Introductions to GRS 1–16, 18, and 23

"A new item has been added to this schedule to authorize the destruction of source records, regardless of physical format, that are maintained in addition to the record in an agency recordkeeping system. This item covers records that are used to create the recordkeeping copy, e.g., the electronic record that remains on electronic mail and word processing system after a record has been produced for inclusion in a recordkeeping system."

Rationale for Proposed Changes to the GRS

The following appraisal report for N1-GRS–98–3 is based on the Electronic Records Work Group report to the Archivist of the United States. Please note that NARA has not adopted the term "electronic source records" proposed by the Work Group; that term is limited to the electronic copies of records formerly covered by GRS 20, items 13, 14, and 15, and the new GRS items cover a broader range of records.

Background

In the 1995 edition of the General Records Schedules, GRS 20, items 13, 14 and 15, authorized the deletion of electronic copies that remained on electronic mail and word processing systems after a record was produced for inclusion in a recordkeeping system. The disposition of the recordkeeping system would be governed by a separate GRS or agency schedule item. This authority was challenged in a court suit on the basis that the GRS cannot provide Government-wide authorization for destruction of electronic mail messages and word processing records that qualified as program records. Subsequently, the Archivist has determined as a matter of policy that the GRS will be limited to common administrative records, and he charged the Electronic Records Work Group to develop guidance to distinguish between administrative and program records. The Work Group did so in Appendix D of its report to the Archivist.

Program records are those records created by each Federal agency in performing the unique functions that stem from the distinctive mission of the agency. The agency's mission is defined in enabling legislation and further delineated in formal regulations.

Administrative records are those records created by several or all Federal agencies in performing common facilitative functions that support the agency's mission activities, but do not directly document the performance of mission functions. Administrative records relate to activities such as budget and finance, human resources, equipment and supplies, facilities, public and congressional relations, and contracting.

Discussion

The General Records Schedules (GRS) issued by the National Archives and Records Administration (NARA) in accordance with 36 CFR 1228.40 apply to certain administrative records created by several or all agencies. Their purpose and maintenance requirements are generally standard from agency to agency. The GRS provide mandatory disposition authority for those records, unless an agency requests and receives an exception from NARA.

All program records and administrative records not covered by a GRS must be scheduled by the creating agency. Examples of administrative records not covered by the GRS may include records that supplement the

records covered by the GRS, records that may be organized or maintained in a way that make application of the GRS inappropriate, or records where the content or organization of the files may vary significantly from agency to agency, such as records relating to the selection of political appointees (see NARA Bulletin 95–6).

This schedule adds a new item to GRS 1–16, 18, and 23, to authorize disposal of the source records used to produce records maintained in those GRS recordkeeping systems, *after* a recordkeeping copy has been produced. These source records will include electronic copies generated using electronic mail, word processing, and other office automation systems. This authority is needed because the electronic copy that remains on the office automation system is a record, in addition to the record in the recordkeeping system.

This new item is appropriate for inclusion in the revised GRS because the GRS only will apply to administrative records. This new item is recommended because, unlike unique agency program records, NARA believes that the electronic copies of records covered by the GRS have insufficient value for continued retention once the recordkeeping copies are produced. (This authority would not be added to GRS 17 and 21 because they cover cartographic, architectural, and audiovisual records. Even though such nontextual records may be generated in digital format, NARA needs to conduct further study before determining whether disposition authorities for electronic copies should be added to these two GRS. GRS 19, Research and Development Records, was withdrawn in a previous edition of the GRS, and NARA has decided to withdraw GRS 22, Inspector General Records, in the next edition.)

The new item would align the disposition authority for electronic copies and other source records with records documenting a specific administrative function, as opposed to providing one GRS authority across functional areas, as was done in the 1995 edition of GRS 20. It will provide authority for deletion of the source records, including those that are maintained on office automation applications apart from an agency recordkeeping system. The new item will be applicable to source records in all physical formats that the agency does not maintain in a recordkeeping system. However, the item will authorize deletion of source records maintained apart from the recordkeeping system only *after* a recordkeeping copy is produced. The item will not apply to the records in a recordkeeping system.

Dated: October 7, 1998.

Michael J. Kurtz,

Assistant Archivist for Records Services—Washington, DC.

[FR Doc. 98–27358 Filed 10–8–98; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND DATE: 10:00 a.m., Wednesday, September 9, 1998.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); and (9)(B) (disclosure would significantly frustrate implementation of a proposed Agency action).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, DC 20570, Telephone: (202) 273–1940.

Dated: Washington, DC, September 16, 1998.

By Direction of the Board:

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 98–27337 Filed 10–7–98; 12:28 pm]

BILLING CODE 7545–01–M

NATIONAL LABOR RELATIONS BOARD

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: National Labor Relations Board.

TIME AND PLACE: 10:00 a.m., Monday, September 14, 1998.

PLACE: Board Conference Room, Eleventh Floor, 1099 Fourteenth St., N.W., Washington, DC 20570 Telephone: (202) 273–1940.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices); and (9(B) (disclosure would significantly frustrate implementation of a proposed Agency action).

MATTERS TO BE CONSIDERED: Personnel Matters.

CONTACT PERSON FOR MORE INFORMATION: John J. Toner, Executive Secretary, Washington, DC. 20570. Telephone: (202) 273–1940.

Dated: Washington, DC, September 16, 1998.

By direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 98–27338 Filed 10–7–98; 8:45 am]

BILLING CODE 7545–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 27, 1998, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on September 25, 1998 to the following applicants:

Wayne Z. Trivelpiece—Permit No. 99–003
Donald B. Siniff—Permit No. 99–904 and 99–905
Arthur L. DeVries—Permit No. 99–006
William R. Fraser—Permit No. 99–007, 99–008 and 99–009
Rennie S. Holt—Permit No. 99–010

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 98–27071 Filed 10–8–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems.

Date and Time: October 26, 1998: 8:15 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1371.

Type of Meeting: Closed.

Contact Person: Drs. Robert M. Wellek and Eldred Chimowitz, Program Directors, Division of Chemical and Transport Systems (CTS), Room 525, (703) 306–1371.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate nominations for the FY98 Career Panel proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information; of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c)(4) and (6) of the Government in the Sunshine Act.

Dated: October 5, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27072 Filed 10–8–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Materials Research, (1203).

Dates & Times: October 30, 1998, 8:00 a.m.–5:00 p.m.

Place: Room 380, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meetings: Closed.

Contact Person: Dr. Andrew J. Lovinger, Program Director, Division of Materials Research, Room 1065.39, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1839.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted for consideration for support of CAREER proposals in the Polymers Program of the Division of Materials Research.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 5, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27073 Filed 10–8–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Materials Research (1203).

Dates & Times:

October 28, 1998, 5:00 p.m.–9:00 p.m.
October 29, 1998, 8:00 a.m.–5:00 p.m.

Place: Brown University, Providence, RI, Barus & Holley Bldg.

Type of Meetings: Closed.

Contact Person: Dr. Carmen Huber, Program Director, Division of Materials Research, Room 1065.27, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1996.

Purpose of Meeting: To provide advice and recommendations concerning progress of Materials Research Science and Engineering Center.

Agenda: To review and evaluate progress of Materials Research Science and Engineering Center.

Reason For Closing: The project being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the effort. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 5, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27074 Filed 10–8–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis in Materials Research, (#1203).

Date & Time: October 29, 1998; 8:00 AM–5:00 PM.

Place: Room 1020; National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. LaVerne D. Hess, Program Director, Division of Materials Research, Room 1065.43, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1837.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Faculty Early Career Development (CAREER) Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 5, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–27075 Filed 10–8–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Membership of National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board

AGENCY: National Science Foundation.

ACTION: Announcement of membership of the National Science Foundation's Performance Review Board for Office of Inspector General Senior Executive Service Positions.

SUMMARY: This announcement of the membership of the National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board is made in compliance with 5 U.S.C. 4314(c)(4).

ADDRESSES: Comments should be addressed to Director, Division of Human Resource Management, National Science Foundation, Room 315, 4201 Wilson Boulevard, Arlington, VA 22230.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Wilkinson, Jr. at the above address or (703) 306–1180.

SUPPLEMENTARY INFORMATION: The membership of the National Science Foundation's Office of Inspector General Senior Executive Service Performance Review Board is as follows:

Stanley V. Jaskolski, Chairman, Audit and Oversight Committee, National Science Board, Chairperson

Linda P. Massaro, Director, Office of Information and Resource Management, Executive Secretary

Judith S. Sunley, Assistant to the Director.

Dated: September 30, 1998.

John F. Wilkinson, Jr.,

Director, Division of Human Resources Management.

[FR Doc. 98–27076 Filed 10–8–98; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26924]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

October 2, 1998.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 27, 1998, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 27, 1998, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

GPU, Inc., et al. (70–9201)

GPU, Inc. ("GPU"), a registered holding company, its service company, GPU Service, Inc. ("GPUS"), both of 300 Madison Avenue, Morristown, New Jersey 07962, and its operating companies, Jersey Central Power & Light Company ("JCP&L"), Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") (collectively, "Public Utility Companies"), each of P.O. Box 16001, Reading, Pennsylvania 19640, have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 45, 54, 87(b)(1), 90 and 91 under the Act.

By order of the Commission GPUS was authorized to perform certain management, planning, engineering, coordinating and administrative services for the Public Utility Companies.[1] In 1996, certain GPUS personnel providing various services[2] related to the energy services and delivery businesses of the Public Utility Companies were functionally realigned to report to the Public Utility Companies' management team.[3] GPUS also employs personnel performing services used across the GPU system, such as legal services and consolidated accounting services.

The Public Utility Companies and GPUS now propose to enter into an amended services agreement ("New Services Agreement") which will permit GPUS to perform expanded functions for the Public Utility Companies as discussed below. The expanded functions constitute several of the components of the proposed consolidation of the GPU system.

New Integrated Core Information System

The Public Utility Companies intend to replace most of their existing information systems with a new integrated core information system developed by SAP America, Inc. ("SAP").[4] The aggregate cost of implementing the SAP system, estimated between $108 million and $115 million,[5] will be allocated among the Public Utility Companies using the multiple factor formula discussed below.[6] The Public Utility Companies will use internally generated funds to pay for the SAP system. The applicants represent that implementation of the SAP system is expected to result in labor-related savings to the Public Utility Companies of approximately $20 million annually.

Personnel Realignment

In order to maximize the benefits, efficiencies and effectiveness of the SAP system, the Public Utility Companies have concluded that it is necessary to combine their human, technical, material and operation resources into a single service company. Accordingly, in order to implement the single service company approach, the Public Utility Companies intend to transfer substantially all of their personnel, including the union personnel, to GPUS.[7] The personnel transfers are not expected to involve the physical relocation of a substantial number of employees.

In October 1997, the Public Utility Companies announced a plan to divest all of their nonnuclear generation facilities in 1999. These facilities are currently owned by the Public Utility Companies and operated and maintained by GPU Generation, Inc. ("Genco").[8] In anticipation of this divestiture, the 1,630 employees of the Public Utility Companies performing operation and maintenance services for GPU's nonnuclear facilities may not initially be transferred to GPUS as part of the personnel realignment. The applicants anticipate that if any of these employees are not hired by the buyer(s) of GPU's nonnuclear generation assets, and remain employed with the Public Utility Companies and Genco, they will be transferred to GPUS.

[1] *See* Holding Co. Act Release No. 17112 (Apr. 29, 1971).

[2] These services included: library services, graphic resources, forms management, general books and plant accounting, payroll and accounts payable, interconnected transmission services, power services, procurement, facilities management, materials and supplies, transportation, information technology services, human resources, communications and environmental affairs.

[3] By 1996, GPU had functionally combined the energy services and delivery businesses of the Public Utility Companies. As a result of this realignment, a single management team became responsible for the combined energy services and delivery businesses of the Public Utility Companies.

[4] The Public Utility Companies anticipate that implementation of the SAP system will: (i) replace the major existing systems and provide a single integrated information system for all major Public Utility Company activities; (ii) standardize and align work processes; (iii) avoid the difficult and expensive integration of existing systems; and (iv) provide for the operation of the information systems beyond 1999. The applicants state that the single service company approach, discussed below, will allow for the most effective use of the SAP system and will minimize the need for costly and complex customization of the core components of the SAP system.

[5] This amount will cover the costs of process redesign, hardware, software, data conversions, testing and training.

[6] The applicants represent that the Public Utility Companies are the only GPU system companies currently receiving any significant benefit from the SAP system. However, if in the future other GPU system companies use the SAP system in any significant manner, GPU will allocate to these other companies an equitable share of the costs and savings based on the facts and circumstances existing at that time.

[7] To the extent the personnel realignment involves union employees, GPUS will become a successor employer under the various collective bargaining agreements ("Union Agreements") between the Public Utility Companies and their union employees. GPUS intends to become the employer party to the Union Agreements and adopt the terms of these agreements.

[8] See Holding Co. Act Release No. 26463 (Jan. 26, 1996).

GPU's nuclear generating facilities are operated and maintained by GPU Nuclear, Inc. ("GPUN").[9] In July 1998, GPU announced its intention to sell the Three Mile Island Unit 1 nuclear generating facility. With respect to Oyster Creek, the other nuclear facility operated by GPUN, a decision has not been reached whether to continue its operation or effect an early retirement. Pending the final disposition of the nuclear generating assets, GPU does not intend to transfer the nuclear operating personnel of GPUN or the Public Utility Companies to GPUS.

GPUS currently has 670 employees while Genco has 516 and GPUN has 219. Approximately 3,075 union and 1,730 nonunion employees, having a yearly budget payroll of approximately $265 million are expected to be transferred from the Public Utility Companies to GPUS.[10] Following completion of the personnel realignment, but subject to the divestiture of nuclear and nonnuclear generating assets discussed above, the only employees of the Public Utility Companies will be approximately 80 personnel responsible for transmission and distribution dispatching, 1,630 personnel (all union) engaged in nonnuclear generation operations and 1,100 personnel (all union) engaged in nuclear generating operations. These nontransferred personnel will retain the same job responsibilities and duties after the personnel realignment.

As part of the personnel realignment, GPUS will create an Operations Division which will include substantially all of the Public Utility Company employees who are to be transferred to GPUS. It is expected that officers of the Public Utility Companies will also serve as officers of the Operations Division of GPUS. In addition, existing GPUS personnel involved in corporate, treasury, legal, accounting and certain other functions will continue to perform those services in a separate division GPU intends to form as the Corporate Division of GPUS.

Under the proposed New Services Agreement, the Public Utility Companies may, from time to time, request that GPUS lease its employees to the Public Utility Companies. The applicants presently anticipate that only New jersey based employees will be leased. Under this proposal, all union personnel formerly employed by JCP&L and then transferred to GPUS are expected to be leased to JCP&L on an annual basis, subject to automatic renewal unless terminated by JCP&L. The cost of leasing will equal the cost of services provided by the employees had they not been leased and had the services been provided directly to JCP&L.[11] The applicants state that the leasing program is not expected to restrict employees leased to one Public Utility Company from providing services to the other Public Utility Companies or the allocation of costs among the Public Utility Companies.

Inventory and Procurement Functions

As part of this consolidation, the purchasing and inventory functions for the transmission and distribution systems of the Public Utility Companies will be assumed by GPUS so that equipment and materials will be acquired and inventories by GPUS and sold to an Public Utility Company, at cost,[12] when needed. GPUS may also purchase fuel, including natural gas, for resale, at cost, to an Public Utility Company for an owned generation plant or for a nonutility generator with which an Public Utility Company has a power supply agreement. GPUS will use the facilities and properties of the Public Utility Companies in carrying out its responsibilities. Any agreements with nonaffiliated entities will be entered into either directly by the Public Utility Companies which own the respective generation facilities or by GPUS as agent for the affected Public Utility Company.

In connection with the assumption by GPUS of these inventory and purchasing functions, the Public Utility Companies propose to sell to GPUS up to $60 million aggregate book value of existing transmission and distribution inventory to GPUS, at cost,[13] under rules 90 and 91 under the Act. The inventories consist of approximately 22,000 categories of items that fall into four groups: materials and supplies, meters, substation items and transformers.[14] These items are used in all facets of the operation and maintenance of the GPU transmission and distribution system. The inventories are primarily located in one of four storeroom locations, located in either New Jersey or Pennsylvania. It is expected that inventory purchased by a Public Utility Company from GPUS will come from the storeroom located in the purchaser's service territory. Consequently, the "repurchase" price paid by the Public Utility Company and the sale price of the item to GPUS will be the same for items comprising the initial inventory.

The applicants state that GPUS will not engage in the sale of inventory to persons other than the Public Utility Companies, except in cases of emergency or when inventory levels are substantially in excess of the Public Utility Companies' requirements. Any transactions with (x) other associates will be effected at cost and (y) nonassociates will be at current market prices or at prices achieved through arms length bargaining (provided that sales of excess inventory would also be made at prices not less than GPU's cost, unless otherwise authorized by the Commission). Any profits derived from sales to nonassociates will be applied to offset the cost of capital to be charged to the Public Utility Companies as required under 17 C.F.R. 256.01-2.

The applicants state that the consolidation of purchasing and inventory functions will produce an expected one-time benefit of $8 million in year 2000 (reflecting a reduction in inventory required in year 2000). In addition, savings in the form of reduced carrying charges associated with inventory reduction are estimated at approximately $1.2 million annually starting in year 2000.

Another component of GPU's consolidation is GPU's decision to change from its current departmental and functional alignment to a process-based managed approach. GPU states that its business activities should focus on three core business processes: Managing and Servicing Delivery Assets; Providing Customer Service; and Managing Energy Risk. Similarly, GPU plans to concentrate on providing three support functions: Providing Support Services; Managing Financial Performance; and Developing Business Opportunities.

[9] See Holding Co. Act Release No. 21708 (Sept. 5, 1980).

[10] The proposed personnel transfers are intended to, among other things, simplify the existing payroll, operational and administrative complexities of having functionally-related personnel employed by more than one Public Utility Company. Applicants further assert that the consolidation will produce a more focused and efficient management of human resources, avoid data replication in different entities and other similar benefits.

[11] Applicants state that the New Jersey Division of Taxation has advised JCP&L that the services performed under the leasing proposal will be exempt from New Jersey sales/use tax.

[12] Applicants state that at cost will be calculated at the average unit prices by storeroom location and will be charged only for materials and fuel actually delivered to the site.

[13] The at cost determination will be based on the actual book cost of the Operating Companies at December 31, 1998.

[14] Applicants state that the initial inventory owned by the Operating Companies will be acquired by GPUS with the proceeds of loans from the Operating Companies. These loans will be payable upon demand and will bear interest at the rate equal to each Operating Company's average short-term interest for 1997. Thus, JCP&L will charge interest at 5.82% while Met-Ed will charge 5.70% and Penelec will charge 5.78%.

Cost Allocation

Under the proposed New Services Agreement, GPUS will render all services on an at cost basis. Each core business or support process in the Operations Division will maintain records to accumulate all costs of doing business and to determine the cost of service. The factors in determining cost of service include: wages and salaries of employees, fees and other charges of contractors supplying goods and services, and related expenses, like insurance, taxes, pensions and other employee welfare expenses. The Corporate Division will maintain records of general administrative expenses, including the costs of operating GPUS as a corporate entity.

Whenever possible, charges for services rendered or personnel assigned or leased to a particular Public Utility Company and related expenses and nonpersonnel expenses incurred for the benefit of a particular Public Utility Company will be billed directly to that Public Utility Company.

When an Operations Division service is rendered for the benefit of two or more companies and the benefits cannot be directly charged, the costs will be shared by the receiving companies in proportion to the average of: (1) Gross distribution plant, (2) energy delivered to ultimate consumers in KWH, and (3) operating and maintenance expense excluding purchased power. This multiple factor formula is currently in use and the factors are updated annually. The formula will be applied to those functions that provide support services for the operation of the Public Utility Companies, GPUN and Genco.

When a Corporate Division service which is principally used by the Public Utility Companies cannot be directly charged, the multiple factor formula will be used. In other cases, Corporate Division services which cannot be directly charged will be allocated based on the direct payroll cost ratio formula. This formula is based on the amount of payroll and payroll overheads directly charged to individual GPU system companies, including nonutility subsidiaries. The direct payroll cost ratio formula will equitably allocate the costs of Corporate Division services to all GPU system companies, since the bulk of the allocated costs associated with the Corporate Division is represented by payroll.

The applicants represent that all other costs will be fairly and equitably allocated in accordance with rules 90 and 91 of the Act.

Applicants undertake not to change the organization of GPUS, the type and character of the companies to be serviced, the methods of cost allocation among the Public Utility Companies, the scope or character of the services rendered subject to section 13 of the Act, or any applicable rule, regulation or order without prior Commission authorization by order or under the 60-day letter procedure.

Applicants represent that the proposed consolidation will not involve the formation of any new legal entities, the write-down of any rate-based assets or the transfer of any utility assets. GPUS will obtain working capital from a working capital account, funded by the Public Utility Companies and established under Article 6 of the proposed New Services Agreement.

New Century Energies, Inc., et al. (70–9341)

New Century Energies, Inc. ("New Century Energies"), a registered holding company, located at 1225 17th Street, Denver, Colorado, 80202–5534, has filed an application-declaration under sections 6(a), 7, 12(b), 32 and 33 of the Act and rules 45, 53, and 54 under the Act.

New Century Energies is currently authorized under the terms of orders dated August 1, 1997 and May 14, 1998 (NCAR Nos. 26750 and HCAR Nos. 26872, respectively), among other things, to use the proceeds of the issuance of short-term debt and common stock to invest, directly or indirectly through one or more special purpose subsidiaries or project parents ("Intermediate Subsidiaries"), in exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs"), and to issue guarantees of the obligations of these entities. Under the terms of these orders and rule 53(a)(1) under the Act, New Century Energies may not use the net proceeds of these issuances for these investments or issue guarantees for these obligations if New Century Energies' "aggregate investment," as defined in rule 53(a) under the Act, in all EWGs and FUCOs exceeds 50% of New Century Energies' "consolidated retained earnings," as defined in the rule.

New Century Energies requests that the Commission modify this limitation and exempt New Century Energies from the requirements of rule 53(a)(1). Specifically, New Century Energies requests an order that would allow it to use the net proceeds of common stock sales and borrowings to invest in EWGs and FUCOs and to issue guarantees of the obligations of these entities [15] in an aggregate amount that, when added to new Century Energies' then existing aggregate investment in EWGs and FUCOs, would not at any time exceed 100% of New Century Energies' consolidated retained earnings.[16]

New Century Energies' aggregate investment in EWGs and FUCOs as of December 31, 1997 (approximately $364.4 million) represents approximately 50.9% of its consolidated retained earnings (approximately $715.6 million).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–27119 Filed 10–8–98; 8:45 am]

BILLING CODE 8010–01–M

[15] Guarantees may also be issued for the obligations of Intermediate Subsidiaries.

[16] New Century Energies is currently seeking authority in a separate filing to issue certain debt securities, the proceeds of which would be used, among other things, to invest in EWGs and FUCOs.

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before December 8, 1998.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: "Validation of Pass Registration".

Type of Request: Revision of a currently approved collection.

Form No's: 1167 and 1395.

Description of Respondents: Small Businesses interested in federal procurement Opportunities.

Annual Responses: 189,600.

Annual Burden: 33,200.

Comments: Send all comments regarding this information collection to, Glen Harwood, Pass Program Manager, Office of Government Contracting, Small Business Administration, 409 3rd Street S.W., Suite 8000, Washington, D.C. 20416. Phone No: 202–205–7310.

Send comments regarding whether this information collection is necessary

for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Title: "Evaluation of the 7(a) and 504 Guaranteed Loan" Programs.

Type of Request: Revision of a currently approved collection.

Form No: 1980.

Description of Respondents: 7(a) and Guaranteed Loan participants.

Annual Responses: 700.

Annual Burden: 583.

Comments: Send all comments regarding this information collection to, Gail Hepler, Financial Analyst, Office of Financial Assistance, Small Business Administration, 409 3rd Street S.W., Suite 8300, Washington, D.C. 20416. Phone No: 202–205–7530.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Jacqueline White,

Chief, Administrative Information Branch

[FR Doc. 98–27224 Filed 10–8–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3133]

State of Louisiana; And Contiguous Counties in Mississippi and Texas

As a result of the President's major disaster declaration on September 23, 1998, and amendments thereto on September 30, I find that the following Parishes in the State of Louisiana constitute a disaster area due to damages caused by Tropical Storm Francis and Hurricane Georges beginning on September 9, 1998 and continuing: Cameron, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. John The Baptist, St. Tammany, Tangipahoa, Terrebonne, and Washington. Applications for loans for physical damage may be filed until the close of business on November 22, 1998 and for economic injury until the close of business on June 23, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155

In addition, applications for economic injury loans from small businesses located in the following contiguous parishes and counties may be filed until the specified date at the above location: Ascension, Assumption, Calcasieu, East Baton Rouge, Jefferson Davis, St. Charles, St. Helena, St. James, St. Mary, and Vermilion Parishes in the State of Louisiana; Amite, Hancock, Marion, Pearl River, Pike, and Walthall Counties in the State of Mississippi; and Jefferson and Orange Counties in the State of Texas.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.875
Homeowners Without Credit Available Elsewhere	3.437
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 313308. For economic injury the numbers are 9A1400 for Louisiana, 9A1500 for Texas, and 9A3000 for Mississippi.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 1, 1998,

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–27222 Filed 10–8–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3137]

State of South Carolina

Charleston County and the contiguous counties of Berkeley, Dorchester, Colleton, and Georgetown in the State of South Carolina constitute a disaster area as a result of excessive amounts of rainfall that occurred on September 21, 1998. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 30, 1998 and for loans for economic injury until the close of business on July 1, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308

The interest rates are:

	Percent
For Physical Damage	
Homeowners With Credit Available Elsewhere	6.875
Homeowners Without Credit Available Elsewhere	3.437
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 numbers assigned to this disaster are 313706 for physical damage and 9A2600 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 1, 1998.

Fred P. Hochberg,

Acting Administrator.

[FR Doc. 98–27220 Filed 10–8–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3136]

U.S. Territory of the Virgin Islands

As a result of the President's major disaster declaration on September 28, 1998, I find that the Islands of St. Croix, St. John, St. Thomas, and Water Island in the U.S. Virgin Islands constitute a disaster area due to damages caused by Hurricane Georges which occurred September 19–22, 1998. Applications for loans for physical damages may be filed until the close of business on November 27, 1998, and for loans for economic injury until the close of business on June 28, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303

The interest rates are:

	Percent
Physical Damage:	
Homeowners With Credit Available Elsewhere	6.875
Homeowners Without Credit Available Elsewhere	3.437
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000

	Percent
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 313608 and for economic injury the number is 9A2500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 1, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–27221 Filed 10–8–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3132]

State of Texas

As a result of the President's major disaster declaration on September 23, 1998, and amendments thereto on September 25, I find that the following Counties in the State of Texas constitute a disaster area due to damages caused by severe storms and flooding associated with Tropical Storm Francis beginning on September 9, 1998 and continuing: Brazoria, Galveston, Harris, and Matagorda. Applications for loans for physical damage may be filed until the close of business on November 22, 1998 and for economic injury until the close of business on June 23, 1999 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155

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 above location: Calhoun, Chambers, Fort Bend, Jackson, Liberty, Montgomery, Waller, and Wharton Counties in the State of Texas.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.875
Homeowners Without Credit Available Elsewhere	3.437
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 313211 and for economic injury the number is 9A1300.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 2, 1998.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 98–27223 Filed 10–8–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/09–5382]

South Bay Capital Corporation; Notice of Surrender of License

Notice is hereby given that South Bay Capital Corporation, 5325 E. Pacific Coasts Highway, Long Beach, CA 90804, has surrendered its license to operate as a small business investment company under the Business Investment Act of 1958, as amended (the Act). South Bay Capital Corporation was licensed by the Small Business Administration on October 25, 1989.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender was effective as of September 24, 1998, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 2, 1998.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 98–27219 Filed 10–8–98; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Comment Request

This notice lists information collection package(s) that have been submitted to the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The following information collection is under OMB review:

Manchaca Ruling Compliance Survey—0960–NEW. In accordance with the terms of *Manchaca et. al.* v. *Chater*, the Social Security Administration (SSA) must inform title II and title XVI applicants/recipients in the State of Texas, locus of the class action litigation, about benefits under the food stamp program and make available food stamp applications to these individuals. SSA is also required to complete food stamp applications for title XVI applicants/recipients when all members of the individual's household are receiving title XVI benefits. Another term of the settlement agreement requires SSA to conduct a study in the State of Texas, to determine SSA's effectiveness in promoting the goals of joint processing of food stamp applications and SSA's compliance with these goals. As part of the study, SSA will survey a random sample of title II and title XVI applicants/recipients. The survey will determine the level of the respondent's awareness of food stamp processing in SSA field offices in Texas, and the degree to which field offices have complied with the food stamp application procedures. The information will be included in a report which will be provided to the court and the plaintiff.

Number of Respondents: 450.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 112.5 hours.

Written comments and recommendations regarding the information collection(s) should be directed within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses:

(OMB)

Office of Management and Budget, OIRA, Attn: OMB Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503.

(SSA)

Social Security Administration, DCFAM Attn: Frederick W. Brickenkamp 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4145 or write to him at the address listed above.

Dated: October 1, 1998.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 98–26866 Filed 10–8–98; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

Bureau of Consular Affairs; Certain Foreign Passports Validity

[Public Notice 2902]

Under INA 212(a)(7)(B) an alien who makes an application for a visa or for admission into the United States is required to possess a passport that (1) is valid for a minimum of six months beyond the date of the expiration of the initial period of the alien's admission into the United States or his or her contemplated initial period of stay and (2) authorizes the alien to return to the country from which he or she came or to proceed to and enter some other country during such period. Because of the foregoing requirement, certain foreign countries have agreed with the United States that their passports will be recognized as valid for the return of the bearer to the country of the foreign issuing authority for a period of six months beyond the expiration date specified in the passport. By so agreeing the country in question effectively extends the validity period of the foreign passport an additional six months notwithstanding the expiration date indicated in the passport.

This Public Notice updates the list of countries that have concluded agreements with the Government of the United States:

Algeria
Antigua & Barbuda
Argentina (Added)
Australia
Austria
Bahamas, the
Bangladesh
Barbados
Belgium
Bolivia (Deleted)
Brazil
Canada
Chile
Colombia
Costa rica
Cote D'Ivoire
Cuba
Cyprus
Czech Republic (Added)
Denmark
Dominica
Dominican Republic
Ecuador
Egypt
El Salvador
Ethiopia
Finland
France
Germany
Greece
Grenada
Guatemala (Deleted)
Guinea
Guyana (Deleted)
Honduras (Deleted)
Hong Kong (Certificates of identify & passports)
Hungary (Added)
Iceland
India
Iran (Deleted)
Ireland
Israel
Italy
Jamaica
Japan
Jordan
Korea
Kuwait
Laos
Lebanon
Libya (Deleted)
Liechtenstein
Luxembourg
Madagascar
Malaysia
Malta
Mauritius
Mexico
Monaco
Morocco (Deleted)
Netherlands
New zealand
Nicaragua (Diplomatic & official only)
Nigeria
Norway
Oman
Pakistan
Panama
Paraguay
Peru
Philippines
Poland
Portugal
Qatar
St. Kitts & Nevis
St. Lucia
St. Vincent & the Grenadines
Senegal
Singapore
Slovak Republic (Added)
South Africa (Added)
Soviet Union (Deleted)
Spain
Sri Lanka
Sudan (Deleted)
Suriname
Sweden
Switzerland
Syria
Thailand
Togo (Added)
Trinidad & Tobago
Tunisia
Turkey
United Arab Emirates
United Kingdom
Uruguay
Venezuela

Public Notice 633 of June 4, 1992 issued at 57 FR 23608 is hereby superseded.

Dated: September 29, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98–27117 Filed 10–8–98; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending October 2, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–4509.

Date Filed: September 28, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 26, 1998.

Description: Application of Continental Airlines, Inc. pursuant to 49 U.S.C. Section 41108 and Subpart Q, applies for a certificate of public convenience and necessity and a designation authorizing it to conduct foreign air transportation of persons, property and mail between Newark, New Jersey, Houston, Texas, and Miami, Florida, on the one hand, and Bucharest, Romania, on the other hand. Continental proposes to provide service between U.S. points and Bucharest (OTP) via Paris (CDG) under a code-share arrangement with Air France and via Prague under a code-share arrangement with Czech Airlines.

Docket Number: OST–98–4538.

Date Filed: October 2, 1998.

Due Date for Answers, Conforming Applications, or Motions to Modify Scope: October 30, 1998.

Description: Application of National Airlines, Inc. pursuant to 49 U.S.C. Section 41102 and Subpart Q, applies for a Certificate of Public Convenience and Necessity authorizing it to engage in interstate and scheduled air

transportation of persons, property, and mail.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 98–27228 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCGD08–98–063]

Lower Mississippi River Waterway Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC) will meet to discuss various issues relating to navigational safety on the Lower Mississippi River and related waterways. The meeting will be open to the public.

DATES: LMRWSAC will meet on Tuesday, October 27, 1998, from 9 a.m. to 12 noon. This meeting may close early if all business is finished. Written material and requests to make oral presentations should reach the Coast Guard on or before October 23, 1998. Requests to have a copy of your material distributed to each member of the committee should reach the Coast Guard on or before October 23, 1998.

ADDRESSES: LMRWSAC will meet in the basement conference room of the Hale Boggs Federal Building, 501 Magazine Street, New Orleans, LA. Send written material and requests to make oral presentations to M.M. Ledet, Committee Administrator, c/o Commander, Eighth Coast Guard District (m), 501 Magazine Street, New Orleans, LA 70130–3396. This notice is available on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this notice, contact M.M. Ledet, Committee Administrator, telephone (504) 589–6271, Fax (504) 589–4999.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC). The agenda includes the following:

(1) Introduction of committee members
(2) Remarks by RADM P. Pluta, Committee Sponsor
(3) Approval of the June 15, 1998 minutes
(4) Old Business:
  a. VTS update
  b. Bridge Clearance Gauge
  c. South Pass Dredging
  d. Southwest Pass Wingdam
  e. Red Eye Crossing Soft Dikes
(5) New Business:
(6) Next meeting.
(7) Adjournment.

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meeting. If you would like to make an oral presentation at the meeting, please notify the Committee Administrator no later than October 23, 1998.

Written material for distribution at the meeting should reach the Coast Guard no later than October 13, 1998. If you would like a copy of your material distributed to each member of the committee or subcommittee in advance of the meeting, please submit 28 copies to the Committee Administrator at the location indicated under **ADDRESSES** no later than October 23, 1998.

Information on Services for Individuals With Disabilities

For information in facilities or services for individuals with disabilities, or to request special assistance at the meetings, contact the Committee Administrator at the location indicated under **ADDRESSES** as soon as possible.

Dated: September 22, 1998.

A.L. Gerfin, Jr.,

Acting Commander Eighth, Coast Guard District.

[FR Doc. 98–27248 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program, Daytona Beach International Airport, Daytona Beach, Florida

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Volusia County, Florida under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On April 1, 1998, the FAA determined that the noise exposure maps submitted by Volusia County, Florida under Part 150 were in compliance with applicable requirements. On September 28, 1998, the Administrator approved the Daytona Beach International Airport noise compatibility program. All of the program measures were fully approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Daytona Beach International Airport noise compatibility program is September 28, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 29. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Daytona Beach International Airport, effective September 28, 1998.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measure should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the

provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical users, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, Section 150.5 Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Orlando, Florida.

Volusia County, Florida submitted to the FAA on March 16, 1998, updated noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from December 12, 1994 through March 10, 1998. The Daytona Beach International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on April 1, 1998. Notice of this determination was published in the **Federal Register**.

The Daytona Beach International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2003. It was requested that FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on April 1, 1998, and was required by a provision of the Act to approve or disapprove the program within 180-days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained six (6) proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 28, 1998.

Out right approval was granted for all six (6) of the specific program measures. The approval action was for the following program controls:

Noise abatement measure	Description	NCP pages
	Operational Measures	
1. Preferential Runway Use	It is recommended that existing Air Traffic Control (ATC) procedures continue, to the extent possible, the use of Runway 25R for departures and Runway 7L for arrivals of large (12,500 lbs. and greater) turbo-jet aircraft between the hours of 10:00 p.m. and 7:00 a.m. to reduce noise over residential areas east of the airport. Continuation of the existing ATC procedures to avoid, to the extent possible, using Runway 16–34 for departures of large, turbo-jet aircraft is also recommended to eliminate over flights to residential areas north and south of the airport. FAA Action: Approved as voluntary.	pgs. 8–1 and 9–1; and Table 9–1.
2. Turns to Course for Departing Aircraft.	(a) For small aircraft departing from Runway 7L to the east, turns on course should be made as early as practical to avoid overflying the residential area to the east of the airport. However, this procedure should only be considered for those aircraft that would likely complete the turn while still west of the residential areas east of the airport. (b) It is recommended that existing ATC procedures that cause large, turbo-jet aircraft departing to the east to fly runway heading until reaching the assigned altitude of 5,000' be continued to minimize overall noise impact by allowing the aircraft to gain altitude in the shortest possible time. (c) Small aircraft departures on either Runway 25L or 25R should not turn to the south until they are sufficiently west to avoid overflying the Pelican Bay residential area. Closed traffic (touch and go's) on Runway 7R–25L should remain north of Beville Road to avoid overflying the Pelican Bay area. (d) It is recommended that existing ATC procedures that cause large, turbo-jet aircraft department on either Runway 16 or Runway 34 to fly runway heading until their assigned altitude of 3,000' to be continued to allow for the fastest possible time-to-climb and result in a minimized noise footprint for the aircraft. (e) Departures from Runway 34 should make turns as necessary to remain over commercial development to the extent possible to reduce noise impact to residential areas north of the airport. FAA Action: Approved as voluntary.	pgs. 8–1,9–2 and 9–3; and Table 9–1.

Noise abatement measure	Description	NCP pages
3. Touch and Go Procedures on Runway 7R–25L.	(a) It is recommended that the existing ATC procedure that restricts Touch-and-Go operations to exclude local pattern operations conducted between 10:00 p.m. and 7:00 a.m. to be continued to reduce the number of persons subjected to late night and early morning overflights. This measure was implemented by the FAA ATC in 1989 in response to nearby residents. In addition, the following measures should be implemented: (b) A pattern altitude of 1,000' should be used for all aircraft to benefit residential area. (c) Downwind legs should be flown at pattern altitude and descents should not be initiated until the turn to the base leg to benefit residential areas. (d) Aircraft should remain over or north of Beville Road during the downwind leg until construction of the new runway to benefit residential areas. (e) A 45-degree angle entry into the traffic pattern at the mid-point of the downwind should be avoided since it requires an overflight of the residential area at pattern altitude. Instead, entry to downwind should be made either to the east of the Pelican Bay area or to the west of it (near the I–95 interchange). (f) The Airport should coordinate these recommendations with the Chief Flight Instructor at each of the airport's flight schools to increase chances of a successful implementation. FAA Action: Approved as voluntary.	pgs. 8–1, 9–3 and 9–4; and Table 9–1.
4. NBAA Noise Abatement Procedures	The Airport should encourage the use of standard National Business Aircraft Association (NBAA) Noise Abatement Procedures for turbojet and turboprop business and private aircraft to minimize noise impacts to residents. FAA Action: Approved as voluntary.	pgs. 8–1 and 9–4; and Table 9–1.
Land Use Measures		
1. Purchase of Property	Consideration should be given to the acquisition of the Misty Springs Apartments (128 residential units) to prevent land use incompatible with airport noise resulting from the relocation of Runway 7R–25L. FAA Action: Approved.	pgs. 8–2, 8–3 and 9–4; and Tables 8–1 and 9–1.
2. Comprehensive Plan Revision	A revision of the City of Daytona Beach Comprehensive Plan is recommended to reflect properties acquired and to be acquired for the Daytona Beach International Airport. Rezoning would preclude future residential redevelopment of this land within the 65 Ldn noise contour. FAA Action: Approved.	pgs. 8–3, 8–5 and 9–5; and Tables 8–1 and 9–1.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 28, 1998. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative office of Volusia County, Florida.

Issued in Orlando, Florida on September 29, 1998.

Charles E. Blair,

Manager, Orlando Airports District Office.

[FR Doc. 98–27255 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on PFC Application 98–01–C–00–MWH To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Grant County International Airport, Submitted by the Port of Moses Lake, Moses Lake, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Grant County International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 9, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: J. Wade Bryant, Manager; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration, 1601 Lind Avenue SW, Suite 250; Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. David M. Bailey, Executive Manager, at the following address: Port of Moses Lake, 7810 Andrews Street NE., Moses Lake, WA 98837–3204.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Grant County International Airport under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (425) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, WA 98055–4056. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application 98–01–C–00–MWH to impose and use the revenue from a PFC at Grant County International Airport under the provisions of 49 U.S.C. 40117 and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 1, 1998 the FAA determined that the application to impose and use revenue from a PFC submitted by the Port of Moses Lake, Moses Lake, Washington, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 1, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 1999.

Proposed charge expiration date: April 1, 1999.

Total estimated net PFC revenue: $470.000.

Brief description of proposed project(s): New airport terminal building.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 Air Carrier/Commercial Operators who conduct operations in air commerce carrying persons for compensation or hire in aircraft with a seating capacity of 10 passengers or less. Part 135 Air Carrier/Commercial Operators who conduct operations in air commerce for the purpose of emergency and medical airlift, air ambulance and "Lifeguard" flights.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW, Suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Grant County International Airport.

Issued in Renton, Washington on October 1, 1998.

David A. Field,

Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 98–27250 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA 98–4262]

Transportation Equity Act for the 21st Century; Implementation Procedures for the Approval and Administration of Projects To Reduce the Evasion of Motor Fuel and Other Highway Use Taxes

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comments.

SUMMARY: Over the years, funds have been authorized by the Congress for use by the States and the Internal Revenue Service (IRS) to reduce the evasion of motor fuel and highway use taxes. This document sets forth revised procedures, pursuant to sections 1101 and 1114 of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107), for allocating these funds to the States and the IRS and provides implementation guidance for the approval and administration of such projects under 23 U.S.C. 143. The FHWA seeks public comment from all interested parties regarding the revised funding allocation and administrative procedures described in this notice. The procedures described in this notice may be modified based on the comments received.

DATES: Comments must be received on or before November 23, 1998.

ADDRESSES: Your signed, written comments must refer to the docket number appearing at the top of this document and you must submit the comments 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. Stephen J. Baluch, Office of Policy Development, 202–366–0570; or Mr. Wilbert Baccus, Office of the Chief Counsel, 202–366–0780; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can 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 online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202)512–1661. Internet users may reach the **Federal Register**'s home page at: http//www.nara.gov/fedreg and the Government Printing Office's database at: http//www.access.gpo.gov/nara.

Background

Sections 1101 and 1114 of the TEA–21 authorize funding for highway use tax evasion projects under 23 U.S.C 143. This notice sets forth certain procedures for allocating those funds to the States and provides guidance for the approval and administration of projects to reduce the evasion of motor fuel and other highway use taxes. Funding authorized for highway use tax evasion projects includes $10 million for fiscal year (FY) 1998 and $5 million per year for FY 1999 through 2003, and up to one-fourth of 1 percent of funds apportioned to the States for the Surface Transportation Program (STP) for "initiatives to halt the evasion of payment of motor fuel taxes" (23 U.S.C. 143(b)(8)).

In accordance with 23 U.S.C. 143(c), the major part of the funding authorized in section 1101(a)(14) of TEA–21 for highway use tax evasion projects will be provided to the IRS for the development and maintenance of an automated fuel reporting system. The Federal Highway Administrator, as delegated by the Secretary of Transportation (Secretary), and the Commissioner of the IRS have approved a Memorandum of Understanding (MOU) for the purposes of implementing this system. A copy of the MOU is provided as an attachment to this notice. The MOU establishes the funding to be provided to the IRS. As long as the IRS has met the funding needs to establish and operate the automated fuel reporting system, pursuant to the Secretary's authority under 23 U.S.C. 143(b)(2), the IRS may use a portion of the funds for continuation of the IRS examination and criminal investigation activities of the Joint Federal/State Motor Fuel Tax Compliance Project (or Joint Compliance Project), previously funded under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Public Law 102–240, 105 Stat. 1914, or for any other activity specified in 23 U.S.C. 143(b).

All funds not provided to the IRS will be allocated to the States for efforts to reduce the evasion of highway use taxes, including continued participation in regional motor fuel tax enforcement task forces. Nine such task forces have been organized since 1991 covering all States, under the coordination and leadership of the IRS district offices and State revenue agencies in the nine lead States (California, Florida, Indiana, Massachusetts, North Carolina, Nebraska, New Jersey, Oregon, and Texas).

The FHWA intends to distribute the available funds so as to provide, if possible, at least half of the annual funding allocation that was provided under the ISTEA, that is, $50,000 for lead States and $25,000 for all other States and the District of Columbia. In each fiscal year, allocations would be made only to States that have expended and billed the FHWA for all but 1 year's

amount of obligated funds. In order for sufficient funds to be available to meet this target allocation, the following actions are recommended:

1. State revenue agencies are encouraged to extend the completion date for current projects utilizing unexpended funds (the FHWA will grant reasonable extensions of time up to December 2003 for current projects);
2. States should submit timely reimbursement vouchers so the FHWA can track the balance of unexpended funds for use in making annual allocations; and
3. Funds not obligated by June 30 would not be restored in future years.

The reduced allocations to the States will not be sufficient to fully fund some of the expenditure items previously budgeted, such as, auditor and investigator salaries, equipment purchases, and computerization initiatives. Funding for such items would have to be provided from the one-fourth percent allowable use of STP funds by mutual agreement between the State transportation and revenue agencies. But in any event, the $5 million total available for distribution to the States for FYs 1999–2003 should, by judicious use of remaining unexpended funds and careful allocation to meet State needs, provide sufficient minimum funding for all States to continue participation in the activities of the Joint Compliance Project.

Steering Committee

At the outset of the Joint Compliance Project in 1990, a Steering Committee was formed to lend guidance to the regional task forces, serve as a clearinghouse for exchanging information among the task forces, recommend strategies for expanding the project, review progress, and resolve differences among project participants. The FHWA plans to continue using the Steering Committee, with at least one meeting each year, to assist the States, the IRS, and the task forces in adapting to the changing funding situation under TEA–21. Lead States should continue to designate a representative and alternate to serve on the Steering Committee. In addition, under the MOU to be signed between the IRS and the FHWA, the IRS has proposed forming a work group comprised of State, industry, and Federal agency participants that will develop and monitor an implementation plan for the automated fuel reporting system.

Project Requirements

The following requirements apply to highway use tax evasion projects funded from allocated funds under section 1101(b)(14) or from STP funds:

1. Obligation authority—
a. Allocated funds—Obligation authority will be provided when funds are allocated by an FHWA Notice. The funds allocated to a State shall remain available to the State revenue agency responsible for motor fuel tax enforcement for obligation until June 30 of each fiscal year, at which time any unobligated funds will be withdrawn.
b. STP funds—Funds are available for obligation at the request of the State highway agency for the period specified in the law, i.e., for a period of up to 3 years following the year authorized. Funds obligated shall be included within the obligation limitation distributed to the State by the FHWA.
2. Federal share (allocated funds and STP funds)—
As provided in 23 U.S.C. 143(b)(6), funds are available at 100 percent Federal share.
3. Maintenance of effort certification—
a. Allocated funds—As specified in 23 U.S.C. 143(b), States wishing to receive allocations for tax evasion projects must certify that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level which does not fall below the average level of such expenditures for its last 2 fiscal years.
b. STP funds—Maintenance of effort certification is not required.
4. Task force participation—
a. Allocated funds—To receive allocations under this program, the State revenue agency responsible for enforcement of State motor fuel taxes shall sign the Memorandum of Understanding agreeing to participate in at least one of the regional task forces. States may join one or more task forces to best meet their needs for coordinated fuel tax enforcement.
b. STP funds—Signing the Memorandum of Understanding for participation in a regional task force is not required.
5. Project agreement—
a. Allocated funds—The State revenue agency shall sign two copies of the Project Agreement (FHWA–1548 as amended after July 1, 1998).
b. STP funds—The State highway agency shall sign the Project Agreement (PR–2). (A copy of the Project Agreement forms (FHWA–1548 and PR–2) may be obtained from the contacts listed in this notice.)
6. Project eligibility—
a. Allocated funds—Funds are available for projects to reduce evasion of motor fuel and other highway use taxes.
b. STP funds—Funds are available for "initiatives to halt the evasion of payment of motor fuel taxes" (emphasis added) as specified in 23 U.S.C. 143(b)(8).
7. Allowable costs (allocated funds and STP funds)—An estimate of costs by category of expenditure shall be attached to the Project Agreement. Allowable costs shall be determined in accordance with the Office of Management and Budget Circular A–87, "Cost Principles for State, Local and Indian Tribal Governments." With respect to travel costs, the FHWA project funds may be used:
a. To reimburse State travel costs for motor fuel tax examination and criminal investigation training;
b. For participation at regional task force meetings and other task force activities, such as, joint audits and investigations;
c. For participation in International Fuel Tax Agreement audit and enforcement committee activities;
d. For participation at meetings of the work group for the automated fuel reporting system;
e. For other cooperative State efforts to foster motor fuel tax compliance, such as, the meetings of the Uniformity Committee and the annual and regional Federation of Tax Administrators motor fuel conferences;
f. For participation of lead State representatives at Steering Committee meetings; and
g. For participation of representatives from other States at Steering Committee meetings when requested by the Steering Committee or to participate in other special activities arranged by the Steering Committee.
8. Intergovernmental review (allocated funds and STP funds)—The State shall comply with the intergovernmental review requirements of 49 CFR part 17 according to the procedures established by the State.
9. Environmental impacts (allocated funds and STP funds)—With respect to environmental impact and related procedures (23 CFR 771), projects are considered to be a categorical exclusion under 23 CFR 771.117(c)(1).
10. Compliance with planning requirements—Highway use tax evasion projects are deemed to be part of the long range plans discussed in 23 U.S.C. 134 and 135 with respect to enforcement of any highway user taxes the revenues from which are used to finance the implementation of projects in the plan. Projects should be included in the Transportation Improvement Program (TIP) as follows:
a. Allocated funds—Since funds are allocated to State revenue agencies only for the purpose of fuel tax evasion project activities, projects are not

required to be listed in the TIP discussed in 23 U.S.C. 134 and 135.

b. STP funds—Highway use tax evasion projects carried out by State agencies shall be included in the transportation improvement program (TIP) described in 23 U.S.C. 135. Highway use tax evasion projects carried out by local government agencies within the boundaries of metropolitan areas shall be included in the metropolitan TIP described in 23 U.S.C. 134.

11. Project approval (allocated funds and STP funds)—The State shall request FHWA approval for projects by submitting a letter to the FHWA Division Administrator in the State requesting funds for the project along with the following items:

a. Evidence of completion of the intergovernmental review requirements;

b. The cost estimate by expenditure category; and

c. A signed original copy of the Project Agreement.

12. Project modifications (allocated funds and STP funds)—The State shall request in writing the FHWA's approval of the following items as necessary:

a. Revised budget whenever the estimate for a single cost category changes by more than 10 percent of the total agreement amount, i.e., $5,000 for a $50,000 project;

b. Proposal for procurement of professional services, including identification of the contractor and estimated cost, when the estimated cost exceeds $10,000;

c. Extension of project completion date and reasons for the extension; and

d. Additional funding if required to complete the project.

13. Progress reports (allocated funds and STP funds)—Annual narrative and expenditure reports are required to document progress. The report forms covering motor fuel tax examinations/audits, criminal investigations, and roadside fuel checks are optional.

14. Audits (allocated funds and STP funds)—The State shall arrange for audits when required by 49 CFR part 90.

15. Reimbursement—

a. Allocated funds—State revenue agencies may continue to submit vouchers (PR–20) to the Division Administrator for payment.

b. STP funds—The State transportation agency would submit vouchers for payment as part of the current billing process, and the State transportation agency would make interagency fund transfers to other State (or local) agencies carrying out project activities.

Effective Date

The procedures described in this notice are effective on the date of publication, and may be modified by a subsequent notice based on the comments received.

Request for Comments

The FHWA is requesting public comment from all interested parties concerning the funding allocation, the administrative procedures described in this notice, or on any suggestions to enhance motor fuel tax compliance under this program.

Comments should be submitted to the docket by the deadline indicated in the **DATES** caption. 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 room at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Authority: 23 U.S.C. 315; secs. 1101 and 1114, Pub. L. 105–178, 112 Stat. 107(1998); and 49 CFR 1.48)

Issued on: October 2, 1998.

Kenneth R. Wykle,

Federal Highway Administration, Administrator.

Memorandum of Understanding Between the U.S. Department of Transportation (DOT) and the Internal Revenue Service (IRS)

Purpose: The purpose of this Memorandum of Understanding (MOU) is to implement the provisions of 23 United States Code (U.S.C.)143, relating to highway use tax evasion projects, in particular the requirement for the development and maintenance for an excise fuel reporting system.

Background: On June 9, 1998, the President signed the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, authorizing highway, highway safety, transit, and other surface transportation programs for the next 6 years. TEA–21, as amended, builds on the initiatives established in the Intermodal Surface Transportation Efficiency Act of 1991, and combines the continuation and improvement of current programs with new initiatives to meet America's needs through efficient and flexible transportation. A key part of funding these highway improvements is the collection of Federal and State revenues used for this purpose.

Recognizing the need to ensure compliance for revenue collection, section 1114 of TEA–21, amended 23 U.S.C. 143 to require that the Secretary of Transportation (hereinafter referred to as the "Secretary") shall carry out highway use tax evasion projects in accordance with the provisions therein. Section 143 provides that the funds made available to carry out highway use tax evasion projects may be allocated to the IRS and the States, and that the Secretary shall not impose any condition on the use of funds allocated to the IRS under this subsection.

Title 23, U.S.C. Section 143, further limits the use of funds, provides for the establishment and operation of an automated fuel reporting system, provides for a funding priority, and a MOU between the Secretary and IRS for the purposes of the development and maintenance by the IRS of an excise fuel reporting system.

Wherefore, the DOT and the IRS agree that:

I. Automated Excise Fuel Reporting System (the System) a.k.a. Excise Fuel Information Reporting System (EXFIRS)

(A) The IRS shall develop and maintain the system through contracts.

(1) The IRS believes that a participative process with all stakeholders is the best method to use in the design and development of ExFIRS. By October 1, 1998, the IRS will form a workgroup with participants representing industry, States, the Federal Highway Administration (FHWA), and the IRS. The workgroup will be headed by the IRS Director, Excise Taxes, and will develop an implementation plan to provide for a basic automated excise fuel reporting system, and for enhancements that will best serve the stakeholders, including industry, the States, the FHWA, other government agencies, the IRS, etc.

(2) Workgroup members will determine the system needs and assist the IRS in assembling an implementation plan for use in contracting.

(3) The IRS will use the most expeditious method to obtain qualified contractors to complete the project.

(4) The implementation plan will be a living document. The plan will be monitored by the workgroup on an ongoing basis with revisions to the content, scope, timing, as needed.

(B) The system shall be under the control of the IRS.

(C) To allow for a transition of funding for the States, the IRS projects that the following funding can be made available to the States for motor fuel compliance projects:

FY99	$1,500,000
FY00	1,250,000
FY01	1,000,000
FY02	750,000
FY03	500,000
Total	5,000,000

(D) The system shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

II. Limitation on Use of Funds

Funds made available to carry out highway use tax evasion projects shall be used only:

(A) to expand efforts to enhance motor fuel tax enforcement;

(B) to fund additional IRS staff, but only to carry out functions described in this paragraph;

(C) to supplement motor fuel tax examinations and criminal investigations;

(D) to develop automated data processing tools to monitor motor fuel production and sales;

(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

III. Funding Availability and Priority

(A) The Secretary shall, by Reimbursable Agreement, provide available funding to the IRS for the automated fuel reporting system and for highway use tax evasion projects as described in 23 U.S.C. 143.

(B) The Secretary shall make available sufficient funds for each of fiscal years 1998 through 2003 to the IRS to establish and operate an automated fuel reporting system as its first priority.

IV. Oversight

The FHWA Director, Office of Policy Development, and the IRS Director, Specialty Taxes, will review the development and implementation of highway use tax evasion project activity.

Dated: September 3, 1998

Kenneth R. Wykle,

Administrator, Federal Highway Administration.

Dated: September 10, 1998.

Charles O. Rossotti,

Commissioner, Internal Revenue Service.

[FR Doc. 98–27231 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA–98–3637]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FHWA announces its decision to exempt 12 individuals from the vision requirement in 49 CFR 391.41(b)(10).

DATES: This decision is effective on November 9, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thomas, Office of Motor Carrier Research and Standards, (202) 366–8786, or Ms. Judith Rutledge, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

Twelve individuals petitioned the FHWA for a waiver of the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are Larry A. Dahleen, Earl D. Edland, Dale Hellmann, Dan E. Hillier, Robert J. Johnson, Bruce T. Loughary, Michael L. Manning, Leo L. McMurray, Gerald Rietmann, Jimmy E. Settle, Robert A. Wagner, and Hubert Whittenburg. The FHWA evaluated the petitions on their merits, as required by the decision in *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration*, 95 F.3d 715 (8th Cir. 1996), and made a preliminary determination that the waivers should be granted. On June 3, 1998, the agency published notice of its preliminary determination and requested comments from the public. (63 FR 30285). The comment period closed on July 6, 1998. Three comments were received, and their contents have been carefully considered by the FHWA in reaching its final decision to grant the petitions.

When its notice of preliminary determination was published on June 3, 1998, the FHWA was authorized by 49 U.S.C. 31136(e) to waive application of the vision standard if the agency determined the waiver was consistent with the public interest and the safe operation of CMVs. Because the statute did not limit the effective period of a waiver, the agency had discretion to issue waivers for any period warranted by the circumstances of a request.

On June 9, 1998, the FHWA's waiver authority changed with enactment of the Transportation Equity Act for the 21st Century (TEA–21), Public Law 105–178, 112 Stat.107. Section 4007 of TEA–21 amended the waiver provisions of 49 U.S.C. 31315 and 31136(e) to change the standard for evaluating waiver requests, to distinguish between a waiver and an exemption, and to establish term limits for both. Under revised section 31136(e), the FHWA may grant a waiver for a period of up to 3 months or an exemption for a renewable 2-year period. The 12 applications in this proceeding fall within the scope of an exemption request under the revised statute.

The amendments to 49 U.S.C. 31136(e) also changed the criteria for exempting a person from application of a regulation. Previously an exemption was appropriate if it was consistent with the public interest and the safe operation of CMVs. Now the FHWA may grant an exemption if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The new standard provides the FHWA greater discretion to deal with exemptions than the previous standard because it allows an exemption to be based on a reasonable expectation of equivalent safety, rather than requiring an absolute determination that safety will not be diminished. (*See* H.R. Conf. Rep. No. 105–550, at 489 (1998)).

Although the 12 petitions in this proceeding were filed before enactment of TEA-21, the FHWA is required to apply the law in effect at the time of its decision unless (1) its application will result in a manifest injustice or (2) the statute or legislative history directs otherwise. *Bradley* v. *School Board of the City of Richmond*, 416 U.S. 696 (1974). As the FHWA preliminarily determined the 12 applicants in this proceeding qualified for waivers under the previous stricter standard, they are not prejudiced by our application of the new, more flexible standard at this stage of the proceeding. As nothing in the statute or its history directs otherwise, we have applied the new exemption standard in 49 U.S.C. 31136(e) in our final evaluation of their petitions and determined that exempting these 12 applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to, or greater than, the level that would be achieved without the exemption.

Although applying TEA–21's new exemption standard does not adversely affect the applicants, subjecting their applications to the new procedural requirements would adversely affect them. Section 4007 requires the Secretary of Transportation to promulgate regulations specifying the procedures by which a person may request an exemption. The statute lists four items of information an applicant must submit with an exemption petition and gives the Secretary 180 days to get the new procedural regulations in place.

Although the FHWA intends to meet that deadline, it would be manifestly unjust to the 12 applicants to delay our decision until the new procedural regulations are in place, and then at that time, require them to submit conforming information to support their exemption request. To avoid this delay and injustice, we will not apply the new procedural requirements of Section 4007 to exemption petitions filed before its effective date, June 9, 1998.

Vision And Driving Experience of the Applicants

The vision requirement in 49 CFR 391.41(b)(10) provides:

> A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

The FHWA recognizes, however, that some drivers do not meet the vision standard but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 12 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal detachment, and loss of an eye due to an accident. Their eye conditions were not recently developed. Six (6) applicants were born with their vision impairments and have lived with them for periods ranging from 35 to 57 years. Four (4) applicants developed their conditions during early childhood and have lived with them for periods ranging from 29 to 50 years. One sustained an accident at age 16 and has lived with his injured eye for 15 years. One suffered a retinal detachment at age 30 and has lived with that condition for 23 years. Although one eye does not meet the vision standard in section 391.41(b)(10), each applicant has at least 20/40 corrected vision in his other eye and, in his doctor's opinion, can perform all the tasks necessary to operate a CMV.

The doctors' opinions are supported by the applicants' possession of a valid commercial driver's license (CDL). Before issuing a CDL, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate the CMV. Each of these applicants satisfied the testing standards for his State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL, these 12 drivers have been authorized to drive a CMV in intrastate commerce even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 7 to 37 years. Most have worked for their current employer for over five years. In the past three years, none of the applicants had an accident; three were convicted of a speeding violation; the other nine drivers had no traffic violations.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in 63 FR 30285, June 3, 1998. As no comments focused on the qualifications of a specific applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants as a group, however, is supported by the information published in 63 FR 30285.

Basis for Exemption Determination

Under revised 49 U.S.C. 31136(e), the FHWA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether applicants are likely to achieve an equal or greater level of safety driving in interstate commerce as they have achieved in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FHWA has considered not only the medical reports about the applicants' vision but also their driving records and experience with the vision deficiency. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his past record of accidents and traffic violations. Copies of the studies have been added to the docket.

We believe we can properly apply the principle to monocular drivers because data from the vision waiver program clearly demonstrates the driving performance of monocular drivers in the program is better than that of all CMV drivers collectively. (See 61 FR 13338, March 26, 1996.) That monocular drivers in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, with qualifications similar to those required by the waiver program, can also adapt to their vision deficiency and operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (See Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors, such as age, sex, geographic location, mileage driven and conviction history, are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (See Weber, Donald C., "Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process," Journal of American Statistical Association, June, 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past three year record of the applicants, we note that the 12 applicants have had no accidents and only 3 traffic violations in the last 3 years. They achieved this record of safety while driving with their vision impairment, demonstrating they have adapted their driving skills to accommodate their condition. As the applicants' driving histories with their vision deficiencies are predictors of future performance, the FHWA concludes their ability to drive safely can be projected into the future.

In addition, we believe applicants' intrastate driving experience provides an adequate basis for evaluating their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways in the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas

exposes the driver to more pedestrians and vehicle traffic than exist on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated a CMV safely under those conditions for at least 7 years, most for much longer. Their experience and driving record lead us to believe applicants are capable of operating in interstate commerce as safely as they have in intrastate commerce. Consequently, the FHWA finds that exempting applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For that reason, the agency will grant the exemptions for the two-year period allowed by 49 U.S.C. 31136(e).

We recognize, however, that the vision of an applicant may change and affect his ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FHWA will impose requirements on the 12 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests his vision continues to measure at least 20/40 (Snellen) in the better eye, and (b) by a medical examiner who attests he is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to his employer for retention in its driver qualification file or keep a copy in his driver qualification file if he becomes self-employed. He must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FHWA received three (3) comments to the docket in response to its June 3, 1998, notice of intent to approve the 12 applications for a vision waiver. Each comment was considered and is discussed below.

Mr. Roger A. Sproul of Augusta, Maine, supported the FHWA's determination to grant the waivers. Mr. Sproul is a truck driver who has a vision deficiency in one eye. He agrees the applicants have demonstrated their ability to drive CMVs safely.

Dr. Kurt T. Hegmann, an Associate Professor at the Medical College of Wisconsin, opposes granting the waivers. He believes a person's driving history, even that of "an individual who has had one million miles" of driving experience, is not an indicator of his future performance. In his opinion, only a controlled trial using a comparison group and following epidemiological principles can yield a determination of a person's ability to drive safely in the future. We recognize opinions differ about the validity of using past driving performance as a predictor of future performance. The studies discussed above in "Basis for Waiver Determination", however, support the FHWA's decision to use the driving record and experience of these 12 applicants as a predictor of their future driving performance.

The American Trucking Associations (ATA) opposes granting waivers to drivers who cannot meet the existing medical standards. As it has consistently stated, the ATA believes current standards ensure drivers are in sufficiently good health to drive safely; it believes the vision standard is particularly important because driving responses are based primarily on what is seen. If waivers are granted, the ATA agrees the 12 drivers should be subject to the same annual examination requirements imposed on the grandfathered drivers in FHWA Docket MC–96–2 (61 FR 13338, March 26, 1996). The organization also believes the 12 should be required to report involvement in any DOT-recordable accident directly to the FHWA and be prohibited from driving until they have undergone a medical and vision examination following the accident.

Except for their vision, the health of the 12 drivers is not at issue because they meet all other medical qualification standards in 49 CFR 391.41(b). The good driving records they have established with their limited vision reflect their ability to make safe and appropriate driving responses to visual stimuli. The FHWA is satisfied these 12 individuals qualify under 49 U.S.C. 31136 for an exemption from the vision requirements, subject to the conditions enumerated in this decision. One of those conditions requires them to undergo annual vision examinations which will disclose any deterioration in their visual capacity and will affect their qualifications for the exemption. In view of their driving records over at least the last 3 years, there is no reason to believe their vision will play any greater role in a potential accident than the vision of a driver who meets the standard. For that reason, the FHWA does not agree special conditions regarding accident reporting and driving suspension are warranted.

The ATA also comments that granting vision waivers removes the preemptive effect that FHWA regulations have over the Americans with Disabilities Act (ADA), Public Law 101–336, 104 Stat. 327, as amended. This action "forces motor carriers to assume the risk of waiving vision requirements that the FHWA itself has not determined can be safely waived." As a result, "motor carriers * * * are therefore placed in the unenviable position of having to choose between allowing waived drivers to operate their vehicles or facing possible litigation for violation of the ADA if they refuse to hire such drivers."

The exemptions granted in this proceeding do not affect the vision standard in 49 CFR 391.41(b)(10), except as that standard applies to these 12 drivers. For these drivers, we have determined the vision standard can be safely waived. This determination does not relieve anyone else from complying with the vision standard or any other physical qualification requirement in 49 CFR part 391. For that reason, our action has no general effect on the relationship between FHWA safety regulations and the ADA.

The court's decision in *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration*, 95 F.3d 715 (8th Cir. 1996), requires the FHWA to individually evaluate applications for exemptions from the vision standard in 49 CFR 391.41(b)(10). The statutory standard in 49 U.S.C. 31136(e) governs our evaluation of exemption petitions. Meeting that standard, the 12 veteran drivers in this case have demonstrated to our satisfaction that they can operate a CMV with their current vision as safely in interstate commerce as they have in intrastate commerce. For that reason, granting them an exemption complements the purpose of the ADA by promoting employment opportunities for the disabled without jeopardizing safety.

Conclusion

After considering the comments to the docket and based upon its evaluation of the 12 waiver applications in accordance with *Rauenhorst* v. *United States Department of Transportation, Federal Highway Administration, supra*, the FHWA exempts Larry A. Dahleen, Earl D. Edland, Dale Hellmann, Dan E.

Hillier, Robert J. Johnson, Bruce T. Loughary, Michael L. Manning, Leo L. McMurray, Gerald Rietmann, Jimmy E. Settle, Robert A. Wagner, and Hubert Whittenburg from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests his vision continues to measure at least 20/40 (Snellen) in the better eye, and (b) by a medical examiner who attests he is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to his employer for retention in its driver qualification file or keep a copy in his driver qualification file if he becomes self-employed. He must also have a copy of the certification when driving so it may be presented to a duly authorized Federal, State, or local enforcement official.

To satisfy 49 U.S.C. 31136(e) and 31315(b)(7), this exemption will become effective 30 days from the date of publication in the **Federal Register** to allow notification of State safety compliance and enforcement personnel and the public that the 12 applicants will be operating pursuant to the exemptions granted in this proceeding.

In accordance with revised 49 U.S.C. 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FHWA. The exemption will be revoked if (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FHWA for a renewal under procedures in effect at that time.

Authority: 49 U.S.C. 31136 and 31315; 23 U.S.C. 315; 49 CFR 1.48.

Issued on: October 2, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–27229 Filed 10–8–98; 8:45 am]

BILLING CODE 4910–22–U

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 29, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 9, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0895.
Form Number: IRS Form 3800.
Type of Review: Revision.
Title: General Business Credit.
Description: Internal Revenue Code (IRC) section 38 permits taxpayers to reduce their income tax liability by the amount of their general business credit, which is an aggregation of their investment credit, jobs credit, alcohol fuel credit, research credit, low-income housing credit, disables access credit, enhanced oil recovery credit, inc. Form 3800 is used to figure the correct credit.
Respondents: Business or other for-profit, Individuals or households, Farms.
Estimated Number of Respondents/ Recordkeepers: 415,163.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—13 hr., 38 min.
Learning about the law or the form—1 hr., 24 min.
Preparing and sending the form to the IRS—1 hr., 40 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 6,933,222 hours.

OMB Number: 1545–1190.
Form Number: IRS Form 8824.
Type of Review: Revision.
Title: Like-Kind Exchanges.
Description: Form 8824 is used by individuals, partnerships, and other entities to report the exchange of business or investment property, and the deferral of gains from such transactions under section 1031. It is also used to report the deferral of gain under section 1043 by members of the executive branch of the Federal government.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 180,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—26 min.
Learning about the law or the form—28 min.
Preparing the form—1 hr., 2 min.
Copying, assembling, and sending the form to the IRS—27 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 320,295 hours.

OMB Number: 1545–1205.
Form Number: IRS Form 8826.
Type of Review: Revision.
Title: Disabled Access Credit.
Description: Code section 44 allows eligible small businesses to claim a non-refundable income tax credit of 50% of the amount of the eligible access expenditures for any tax year that exceed $250 but do not exceed $10,250. Form 8826 figures the credit and the tax limit.
Respondents: Business or other for-profit, Individuals or households, Farms.
Estimated Number of Respondents/ Recordkeepers: 26,133.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hr., 44 min.
Learning about the law or the form—42 min.
Preparing and sending the form to the IRS—49 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 189,726 hours.

OMB Number: 1545–1339.
Regulation Project Number: IA–33–92 Final.
Type of Review: Extension.
Title: Information Reporting for Reimbursements of Interest on Qualified Mortgages.
Description: To encourage compliance with the tax laws relating to the mortgage interest deduction, the regulations would require the reporting on Form 1098 of reimbursements of interest overcharged in a prior year. Only businesses that received mortgage interest in the course of that business are affected by this reporting requirement.
Respondents: Business or other for-profit.
Estimated Number of Respondents/ Recordkeepers: 1.
Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 1 hour.

OMB Number: 1545–1362.
Form Number: IRS Form 8835.
Type of Review: Revision.
Title: Renewable Electricity Production Credit.
Description: Filers claiming the general business credit for electricity produced from certain renewable resources under code sections 38 and 45 must file Form 8835.
Respondents: Individuals or households
Estimated Number of Respondents/ Recordkeepers: 70
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—10 hr., 31 min.
Learning about the law or the form—12 min.
Preparing and sending the form to the IRS—23 min.
Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 777 hours.
OMB Number: 1545–1416.
Form Number: IRS Form 8847 and Schedule A.
Type of Review: Revision.
Title: Credit for Contributions to Selected Community Development Corporations and Receipt for Contribution to a Selected Community Development Corporation (CDC).
Description: Form 8847 is used to claim a credit for contributions to a selected community development corporation (CDC). The CDC issues Schedule A (Form 8847), with Part I completed, to the contributor to verify the contribution and to show the amount designated as eligible for the credit. The taxpayer certifies the contribution made in Part II of Schedule A.
Respondents: Business or other for-profit, Individuals or households.
Estimated Number of Respondents/ Recordkeepers: 34.
Estimated Burden Hours Per Respondent/Recordkeeper:

	Form 8847	Schedule A (8847)
Recordkeeping	6 hr., 28 min..	3 hr., 7 min.
Learning about the law or the form.	24 min.	
Preparing and sending the form to the IRS.	31 min.	3 min.

Frequency of Response: Annually.
Estimated Total Reporting/ Recordkeeping Burden: 358 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–27172 Filed 10–8–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 1, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 9, 1998 to be assured of consideration.

Departmental Offices/Office of International Financial Analysis

OMB Number: 1505–0010.
Form Number: FC–2.
Type of Review: Revision.
Title: Monthly Consolidated Foreign Currency Report of Major Market Participants.
Description: Collection of information on Form FC–2 is required by law. Form FC–2 is designed to collect timely information on foreign exchange contracts purchases and sold; foreign exchange futures purchased and sold; net options position delta equivalent value long or short; foreign currency denominated assets and liabilities; net reported dealing position.
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents: 35.
Estimated Burden Hours Per Respondent: 4 hours.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 1,680 hours.
OMB Number: 1505–0012.
Form Number: FC–1.
Type of Review: Revision.
Title: Weekly Consolidated Foreign Currency Report of Major Market Participants
Description: Collection of information on Form FC–1 is required by law. Form FC–1 is designed to collect timely information on foreign exchange spot, forward, and futures purchased and sold; net options position, delta equivalent value long or (short); net reported dealing position long or (short).
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents: 35.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Weekly.
Estimated Total Reporting Burden: 1,820 hours.
OMB Number: 1505–0014.
Form Number: FC–3.
Type of Review: Revision.
Title: Quarterly Consolidated Foreign Currency Report.
Description: Collection of information on Form FC–3 is required by law. Form FC–3 is designed to collect timely information on foreign exchange contracts purchased and sold; foreign exchange futures purchased and sold; foreign currency denominated assets and liabilities; foreign currency options and net delta equivalent value.
Respondents: Business or other for-profit, Not-for-profit institutions.
Estimated Number of Respondents: 66.
Estimated Burden Hours Per Respondent: 8 hours.
Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 2,112 hours.
Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–27173 Filed 10–8–98; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

October 1, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance

Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 9, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0971.
Form Number: IRS Form 1041–ES.
Type of Review: Extension.
Title: Estimated Income Tax for Estates and Trusts.
Description: Form 1041–ES is used by fiduciaries of estates and trusts to make estimated tax payments if their estimated tax is $1,000 or more. IRS uses the data to credit taxpayers' accounts and to determine if the estimated tax has been properly computed and timely paid.
Respondents: Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 1,200,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—20 min.
Learning about the law or the form—17 min.
Preparing the form—1 hr., 28 min.
Copying, assembling, and sending the form to the IRS 1 hr., 1 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 3,161,200 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–27174 Filed 10–8–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Agency Taxpayer Identifying Number Implementation Reports

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Policy statement.

SUMMARY: The Debt Collection Improvement Act of 1996 requires that executive agencies include the taxpayer identifying number (TIN) of each payee on certified payment vouchers which are submitted to a disbursing official. The Financial Management Service (FMS), the Department of the Treasury disbursing agency, and other executive branch disbursing agencies are responsible for examining certified payment vouchers to determine whether such vouchers are in the proper form. 31 U.S.C. 3325(a)(2)(A). To ensure that executive branch agencies submit payment certifying vouchers in a form which includes payee TINs, FMS is requiring each executive agency to prepare and submit an agency TIN Implementation Report documenting agency compliance with the TIN requirement. This Policy Statement describes agency TIN Implementation Report requirements.

DATES: This policy statement takes effect October 9, 1998. Reports must be received by April 9, 1999.

ADDRESSES: Reports should be sent to Dean Balamaci, Director, Agency Liaison Division, Debt Management Services, Financial Management Service, Room 154, 401 14th Street SW, Washington, DC 20227.

FOR FURTHER INFORMATION CONTACT: Dean Balamaci (Director, Agency Liaison Division, Debt Management Services) at 202–874–6660, Sally Phillips (Policy Analyst) at 202–874–6749, or James Regan (Attorney-Advisor) at 202–874–6680. This document is available on the Financial Management Service's web site: http://www.fms.treas.gov.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 1996, the Debt Collection Improvement Act of 1996 (DCIA) was enacted as Chapter 10 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L. 104–134, 110 Stat. 1321–358. A major purpose of the DCIA is to enhance the government-wide collection of delinquent debts owed to the Federal Government. The DCIA was effective on April 26, 1996.

Section 31001(d)(2) of the DCIA, codified at 31 U.S.C. 3716(c), generally requires Federal disbursing officials to offset an eligible Federal payment to a payee to satisfy a delinquent non-tax debt owed by the payee to the United States. A Federal disbursing official will conduct such an offset when the name and Taxpayer Identifying Number (TIN) of the payee match the name and TIN of the delinquent debtor, provided all other requirements for offset have been met. This process, known as "centralized offset," also may be used to collect delinquent debts owed to States, including past-due child support. The Department of the Treasury, Financial Management Service (FMS) is responsible for implementing the DCIA, including the centralized offset authority.

Section 31001(y) of the DCIA, codified at 31 U.S.C. 3325(d), facilitates centralized offset by requiring the head of an executive agency or an agency certifying official to include the TINs of payees on certified payment vouchers which are submitted to Federal disbursing officials. FMS, as the Department of Treasury disbursing agency, disburses more than 850 million Federal payments annually. *See* 31 U.S.C. 3321. FMS and other executive branch disbursing agencies are responsible for examining certified payment vouchers to determine whether such vouchers are in the proper form. 31 U.S.C. 3325(a)(2)(A).

To ensure that executive branch agencies submit payment certifying vouchers in a form which includes payee TINs, FMS is requiring each executive agency to prepare and submit an agency TIN Implementation Report to FMS documenting agency compliance with the TIN requirement. Agency TIN Implementation Reports must be received by FMS within six months of the date of publication of this Policy Statement. Treasury Financial Manual Bulletin (TFM) No. 99–02 is being published concurrently with this Policy Statement. TFM Bulletin No. 99–02 provides detailed instructions to agencies on TIN Implementation Report requirements and format.

FMS will review agency TIN Implementation Reports to determine the status of compliance with the statutory requirement to include TINs on payment vouchers. FMS also will evaluate the effectiveness and credibility of proposed agency strategies to achieve compliance through the elimination of barriers to the collection and providing of TINs. FMS will formulate guidance to assist agencies in overcoming or reconciling such barriers. FMS will monitor payment vouchers to ensure that agencies are meeting compliance goals and time frames as identified in Implementation Reports.

FMS will submit a report to Congress on agency payment voucher TIN compliance as part of its DCIA consolidated report to Congress. *See* 31 U.S.C. 3711 note; 31 U.S.C. 3719 note; *see also* 142 Cong. Rec. H4091 (April 25, 1996) (statement of Rep. Horn) ("Congress directs the disbursing official of the Secretary of Treasury * * * to survey agency compliance

with this section [TIN payment voucher requirement] and include the results of this survey in the consolidated debt collection report to Congress * * *"). In the event that agency TIN Implementation Report strategies fail to achieve compliance with the statutory payment voucher TIN requirement, FMS may take other measures to ensure compliance.

FMS made the determination to publish this Policy Statement requiring agencies to submit Implementation Reports after reviewing comments submitted by agencies in response to a proposed rule issued by FMS on September 2, 1997 (62 FR 46428). The proposed rule, if finalized, would require disbursing officials to reject payment requests on certified payment vouchers lacking TINs. The comments received in response to the proposed rule indicate that many agencies have not yet overcome significant barriers impeding the collection and providing of TIN information. Rejecting payment requests lacking TINs would not resolve these barriers, but would unduly interfere with the timely disbursement of Federal funds. Under these circumstances, FMS determined that, rather than finalizing the proposed rule, the review of required Implementation Reports and the promulgation of guidance by FMS to assist agencies in overcoming or reconciling barriers to TIN collection would more effectively ensure compliance with the statutory TIN requirement.

This approach is consistent with the consensus of the inter-agency TIN workgroup established in the fall of 1997 and led by FMS. The inter-agency TIN workgroup is one of three workgroups tasked by the Office of Management and Budget and the Chief Financial Officers Council to resolve issues related to implementation processes needed to achieve the goals and objectives of the DCIA. The TIN workgroup strongly supported a planning and review process (consistent with Implementation Report requirements) as a viable alternative to the approach in the proposed rule to reject payment vouchers lacking TINs. FMS received input from the inter-agency workgroup in the course of drafting agency Implementation Report requirements.

Accordingly, FMS has concluded that the publication of the Policy Statement, in lieu of a final rule, would more effectively resolve the underlying barriers to collecting TINs, and therefore, increase compliance with the DCIA. FMS has published elsewhere in this issue of the **Federal Register** a withdrawal of the notice of proposed rulemaking concurrently with the publication of this Policy Statement.

Policy Statement

Section 31001(y) of the Debt Collection Improvement Act of 1996, codified at 31 U.S.C. 3325(d) requires the head of an executive agency or an agency certifying official to include the TINs of payees on certified payment vouchers which are submitted to Federal disbursing officials pursuant to 31 U.S.C. 3325(a). Each executive agency shall prepare and submit an agency TIN Implementation Report to FMS documenting agency compliance with this statutory requirement. Agency TIN Implementation Reports must be received by FMS within six months of the date of publication of this Policy Statement.

Agency TIN Implementation Reports shall indicate the current status of agency compliance with the requirement to furnish TINs with each certified payment voucher; strategies for achieving compliance; barriers to collection and providing of TINs; and strategies for resolving those barriers.

FMS will review agency TIN Implementation Reports to determine the status of agency compliance. FMS also will evaluate the effectiveness and credibility of proposed agency strategies to achieve compliance through the elimination of barriers to the collection and providing of TINs. FMS will formulate guidance to assist agencies in overcoming or reconciling such barriers. FMS will monitor payment vouchers to ensure that agencies are meeting compliance goals and time frames as identified in Implementation Reports.

Specific guidance on Implementation Report requirements and format, and on payment system requirements relating to TINs, will be provided in Treasury Financial Manual Bulletin (TFM) No. 99–02 and on FMS' web site: http://www.fms.treas.gov. TFM Bulletin No. 99–02 is being published concurrently with this Policy Statement.

FMS will submit a report to Congress on agency payment voucher TIN compliance as part of its DCIA consolidated report to Congress. *See* 31 U.S.C. 3711 note; 31 U.S.C. 3719 note; *see also* 142 Cong. Rec. H4091 (April 25, 1996) (statement of Rep. Horn) ("Congress directs the disbursing official of the Secretary of Treasury * * * to survey agency compliance with this section [TIN payment voucher requirement] and include the results of this survey in the consolidated debt collection report to Congress * * *"). In the event that agency TIN Implementation Report strategies fail to achieve compliance with the statutory payment voucher TIN requirement, FMS may take other measures to ensure compliance.

Dated: October 5, 1998.

Richard L. Gregg,

Commissioner.

[FR Doc. 98–27070 Filed 10–8–98; 8:45 am]

BILLING CODE 4810–35–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 27393, July 2, 1985). I hereby determine that the objects to be included in the exhibit "Donato Creti, Melancholy and Perfection" (see list), imported from abroad for temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about October 26, 1998, to on or about January 31, 1999, and at the Los Angeles County Museum of Art, Los Angeles, California, from on or about February 11, 1999, to on or about April 12, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Lorie Nierenberg, Assistant General Counsel, 202/619–6084, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW, Washington, DC 20547–0001.

Dated: October 6, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–27280 Filed 10–8–98; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register
Vol. 63, No. 196
Friday, October 9, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of Licenses

Correction

In notice document 98–25940 beginning on page 51915 in the issue of September 29, 1998, make the following correction:

On page 51915, in the second column, under "b. Project Nos" "1989-011" should read "1892-011".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 422

[HCFA-1030-CN]

RIN 0938-A129

Medicare Program; Establishment of the Medicare+Choice Program

Correction

In rule document 98–26242, beginning on page 52610 in the issue of Thursday, October 1, 1998, make the following correction:

§ 422.60 [Corrected]

On page 52612, in the first column, in amendatory instruction 12d. of §422.60, in the second line, "(3)(4)(i)," should read "(e)(4)(i),".

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 286

[INS No. 1923–98]

RIN 1115–AF26

Technical Change for Submission for Immigration User Fee Requirements

Correction

In rule document 98–25712, beginning on page 51271, in the issue of Friday September 25, 1998, in the third column, under **Regulatory Flexibility Act**, in the sixth line, "not" should be added after "will".

BILLING CODE 1505-01-D

federal register

Friday
October 9, 1998

Part II

Department of Housing and Urban Development

24 CFR Part 3282
Revision of Manufactured Home Procedural and Enforcement Regulations; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3282

[Docket No. FR–4319–A–01]

RIN 2502–AH14

Revision of Manufactured Home Procedural and Enforcement Regulations

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: HUD plans to update the procedural and enforcement regulations of the Manufactured Home Construction and Safety Standards program. In preparation for this update, HUD is soliciting suggestions, with an emphasis on innovative and streamlined procedures, from interested members of the public.

DATES: *Comment Due Date:* December 8, 1998.

ADDRESSES: Interested persons are invited to submit comments and responses to the Rules Docket clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) responses are not acceptable. A copy of each response will be available for public inspection and copying during regular business hours (7:30 am to 5:30 pm Eastern Time at the above address).

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, mailing address: Room 9156, 451 7th Street, SW, Washington, D.C. 20410–8000, telephone (202) 708–6401. Hearing or speech-impaired individuals may call HUD's TTY number (202) 708–0770, or 1–800–877–8399 (Federal Information Relay Service TTY). Other than the "800" number, these are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background—Manufactured Home Construction and Safety Standards

The National Manufactured Housing Construction and Safety Standards Act of 1974 (Act), 42 U.S.C. 5401 *et seq.*, authorizes the Secretary to establish and amend the Federal Manufactured Home Construction and Safety Standards (FMHCSS), which are codified at 24 CFR parts 3280 (Standards) and 3282 (Procedural and Enforcement Regulations). The stated purposes of the Act are to reduce the number of personal injuries and deaths, and the amount of insurance costs and property damage resulting from manufactured home accidents, and to improve the quality and durability of manufactured homes. HUD administers the Act through the Federal Manufactured Housing Program (Program).

By this advance notice of proposed rulemaking, HUD is soliciting specific suggestions and language to be included in a subsequent proposed rule to update the procedural and enforcement provisions in part 3282. Changes to the actual standards in part 3280 are being proposed and considered through a separate process, because of the technical nature of those standards and statutory requirements. In the process announced in this advance notice of proposed rulemaking, HUD wishes to consider only improvements to its procedural requirements under the Program.

The purpose of part 3282 is to outline the procedures for the implementation of HUD's responsibilities under the Act. Currently, HUD meets these responsibilities in part through the use of private and State inspection organizations and cooperation with State agencies. The part 3282 regulations address approvals and inspections necessary to enforce the Standards; to determine that a manufactured home fails to comply with an applicable standard or contains a serious defect or imminent safety hazard; and to direct the manufacturer to furnish notification thereof, and in some cases, to remedy the serious defect or imminent safety hazard.

The Federal Manufactured Housing Program was established in 1974, and has now been administered by the Department for over 22 years. The experience of the industry, State agencies, consumers and the Department provides the Department with the basis for recommending program changes to implement a more efficient and effective monitoring and enforcement process. This process includes approvals and inspections, investigations and enforcement of the standards, and remedying of defects. The Department hopes to make improvements in these areas and streamline the regulations while helping to increase the safety, quality and durability of manufactured homes.

With better enforcement regulations the Department will ensure that manufacturers producing homes that comply with the Federal construction and safety standards are not put at a competitive disadvantage. More effective and efficient regulations will also make manufactured housing a more attractive source of affordable housing.

Under current regulations, HUD's method of monitoring and enforcement is the same as when the program was initiated. While the method works well in most cases, HUD is interested in considering alternative approaches that may better serve the objectives of consumers, the industry, and HUD.

Specifically, HUD seeks input on innovative and streamlined structures and procedures with respect to subparts A–L of part 3282, and is especially interested in receiving suggestions for proposed changes to subparts E–L.

The Department is not limited to reviewing changes within the present structure of the manufactured housing program. Recommendations for structural changes within the statutory limitations of the program are also being solicited.

II. Solicitation of Public Comments—Changes To Be Considered

In developing and submitting suggestions for changes in all subparts of part 3282, respondents are asked by HUD to identify elements of the monitoring and enforcement process and proposals that have, or appear to have, a potential conflict of interest. The Department welcomes recommendations for minimizing or eliminating any real or apparent conflicts of interest.

Continuing the Administration's efforts to streamline regulations, the Department is also interested in identifying and reorganizing overlapping provisions within Part 3282.

Subpart E of the regulations covers manufacturer inspection and certification requirements. In reviewing subpart E, the Department is interested in receiving recommendations for updating and enhancing the information required to be submitted by manufacturers to validate their designs and quality assurance plans, and for developing a more effective and efficient system for reviewing and approving designs for manufactured housing.

Subpart F of the regulations covers dealer and distributor responsibilities. In reviewing subpart F, the Department is interested in receiving recommendations on defining dealer responsibilities; better identifying the dealer's role in handling complaints and ensuring that homes are placed in the wind, snow and weather zones for which the home was constructed; and

the procedures to be followed if there is transportation damage.

Subpart G of the regulations covers requirements applicable to State Administrative Agencies. In reviewing subpart G, the Department is interested in receiving recommendations for developing a more effective and efficient role for State Administrative Agencies, and better delineating their responsibilities.

Subpart H of the regulations covers general requirements for primary inspection agencies, both Production Inspection Primary Inspection Agencies (IPIAs) and Design Inspection Primary Inspection Agencies (DAPIAs). In reviewing subpart H, the Department is interested in receiving recommendations for improving accountability of PIAs and plants, and in developing more effective and efficient quality control in the design and construction of manufactured housing. This would include measurements of quality, penalties, and the future role of American Society for Quality Control (ASQC/ISO) 9000 series standards, a management system used to document and certify quality assurance by a manufacturer.

Subpart I of the regulations covers the handling of consumer complaints and remedial actions. In reviewing subpart I, the Department is especially interested in receiving recommendations for ensuring the level of consumer protection intended by the statute. In particular, HUD seeks comments addressed to the question: are there alternative procedures or more effective methods of protecting consumer interests that should be considered, while also reducing the compliance burden? Suggestions on simplification of subpart I procedures would be appropriate.

Subpart J of the regulations covers the monitoring of PIAs. In reviewing subpart J, the Department is especially interested in receiving recommendations for developing a more effective and efficient system for monitoring PIAs, and for developing an incentive system for IPIAs based on performance. Such a system could possibly include the development and administration of a national consumer satisfaction rating system for manufactured homes, similar to the annual consumer satisfaction system used in the automotive industry.

HUD will use public comments received in response to this advance notice of proposed rulemaking in the development of a proposed rule intended to provide a more effective and efficient process of monitoring the design and production of manufactured housing in a way that would better serve the public interest.

Dated: September 25, 1998.

Ira G. Peppercorn,

General Deputy Assistant Secretary for Housing.

[FR Doc. 98–27068 Filed 10–8–98; 8:45 am]

BILLING CODE 4210–27–P

federal register

Friday
October 9, 1998

Part III

Department of Health and Human Services

Food and Drug Administration

Environmental Protection Agency

Legal and Policy Interpretation of the Jurisdiction Under the Federal Food, Drug, and Cosmetic Act of the Food and Drug Administration and the Environmental Protection Agency Over the Use of Certain Antimicrobial Substances; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[98N–0867]

ENVIRONMENTAL PROTECTION AGENCY

[OPP–300624; FRL–5773–8]

Legal and Policy Interpretation of the Jurisdiction Under the Federal Food, Drug, and Cosmetic Act of the Food and Drug Administration and the Environmental Protection Agency Over the Use of Certain Antimicrobial Substances

AGENCIES: Environmental Protection Agency (EPA) and Food and Drug Administration (FDA).

ACTION: Notice of policy interpretation.

SUMMARY: The Food Quality Protection Act of 1996 became law on August 3, 1996. FQPA amended both the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the Federal Food, Drug, and Cosmetic Act (FFDCA). Among other things, FQPA changed the regulatory authority of both EPA and FDA with respect to the FFDCA's regulation of pesticide residues in or on food. This notice: (1) Sets forth legal and policy interpretations of the FFDCA as they relate to the jurisdiction of EPA and FDA over antimicrobial substances used in or on food, including food-contact articles; (2) discusses interpretations of certain terms in FIFRA and the implementing regulations relevant to the authority of the two agencies; (3) provides a description of how EPA and FDA propose to clarify the post-FQPA regulatory authority over certain antimicrobial substances; and (4) discusses how EPA and FDA plan to handle the review of petitions for antimicrobial substances that will remain under EPA's jurisdiction and for those that EPA proposes to return to FDA's regulatory authority through EPA rulemaking.

DATES: The policy set out in this notice is effective immediately. Both FDA and EPA will accept comments on this notice for 90 days from October 9, 1998.

ADDRESSES: Comments should be sent to both FDA and EPA dockets at the addresses listed below. Submit written comments identified by the appropriate docket number (for FDA 98N–0867 and for EPA OPP–300624) to:

FDA at: Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

EPA at: 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, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to EPA: opp-docket@epamail.epa.gov. Follow the instructions under Unit VII. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Regarding EPA issues: William L. Jordan, Antimicrobials Division (7510W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (703) 308–6411.

Regarding FDA issues: Mark A. Hepp, Office of Pre-Market Approval Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St., SW., Washington, DC 20204-0002, Telephone: (202) 418–3098.

SUPPLEMENTARY INFORMATION:

Electronic Availability:

Internet

Electronic copies of this document and PR Notice 97P-1 are available from the EPA home page at the Federal Register-Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/).

Fax on Demand

Using a faxphone call 202–401–0527 and select item 6108 for a copy of the PR Notice and select item 6113 for a copy of this **Federal Register** notice.

EPA and FDA are issuing this joint notice to clarify, subsequent to the enactment of the Food Quality Protection Act of 1996 (FQPA), the jurisdiction over antimicrobials that are used in or on food, including those used in or on edible food, and those used in the manufacture of, or in or on, food-contact articles. In addition, the agencies are setting forth a proposed allocation of jurisdiction for these antimicrobials. Implementation of some of these decisions would require EPA rulemaking. Such rulemaking, if finalized as proposed, would reestablish FDA's regulatory authority over certain antimicrobial substances. Therefore, the agencies are presenting an interim plan to coordinate the review of petitions for the antimicrobial substances that would be affected by any proposed EPA rulemaking.

This joint notice is subject to FDA's good guidance practices (GGPs) Level 1 guidance (62 FR 8961, February 27, 1997). FDA will not solicit public input prior to implementation because the guidance presents a less burdensome policy that is consistent with the public health. This guidance does not create or confer any rights for or on any person and does not operate to bind FDA, EPA, or the public.

I. Legal Background

As described more fully below, EPA regulates the sale, distribution, and use of "pesticides" under FIFRA, 7 U.S.C. 136 *et seq.* Historically, EPA and FDA have shared regulatory authority under the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 321 *et seq.* over the residues of such "pesticides" in or on food. The FQPA of 1996 amended FFDCA in ways that alter EPA's and FDA's jurisdiction over certain pesticides with antimicrobial uses.

A. EPA Jurisdiction and Authorities Under FIFRA

In general, FIFRA gives EPA authority to regulate the sale, distribution, and use of a "pesticide." A "pesticide" is defined as any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, . . ." (FIFRA section 2(u)). The term "pest" includes "(1) any insect, rodent, nematode, fungus, weed, or (2) any . . . virus, bacteria, or other microorganism which the Administrator declares to be a pest" (FIFRA section 2(t)). As a result of these broad definitions, EPA regulates, as FIFRA pesticides, a wide variety of chemical substances marketed for a diverse array of uses. For example, EPA regulates, as pesticides, substances used to control weeds and fungi on crops, and microorganisms that may be present on permanent or semi-permanent surfaces, such as counter tops and food processing equipment that may come in contact with food.

It should be noted that FIFRA defines "fungus" as "any non-chlorophyll-bearing thallophyte . . . as for example . . . mildew, mold, yeast, and bacteria . . .," but the definition specifically excludes those organisms when "on or in processed food, beverages, or pharmaceuticals" (FIFRA section 2(k)). Further, EPA has broadened this statutory exclusion in its FIFRA regulations at 40 CFR 152.5(d). Specifically, under this rule, an organism is not considered a "pest" if it is a "fungus, bacterium, virus, or other microorganisms [sic] . . . on or in processed food or processed animal feed, beverages, drugs, . . . or cosmetics . . . ." In applying this exclusion, EPA has historically interpreted the words "processed food" and "processed animal feed" as they are commonly understood--food that has undergone processing and is intended to be consumed immediately or after some further processing or preparation. Because the commonly understood meaning of these terms applies to edible food articles, EPA has not considered food-contact items (such as paperboard and ceramic ware) to be "processed food" within the meaning of that term in FIFRA and EPA's implementing regulations.[1] Thus, EPA has regarded any antimicrobial substance used in or on paper, paperboard, or other food-contact items as a "pesticide" under FIFRA.

With minor exceptions, no pesticide product may be sold or distributed unless EPA has licensed or "registered" the product (FIFRA section 12(a)(1)(A)). EPA registers products on the basis of data showing that the pesticide, when used in accordance with the terms and conditions of registration and in accordance with widespread and commonly recognized practice, will perform its intended function without causing "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)). Through registration, EPA regulates the composition, packaging, and labeling of pesticides. The labeling of a pesticide product includes information prescribing how a product may be used and generally contains directions specifying the sites on which the product may be used, the amount that may be applied, the frequency of application, and appropriate precautions necessary to reduce risks. It is unlawful to use a registered pesticide in a manner inconsistent with its labeling (FIFRA section 12(a)(2)(G)).

B. EPA and FDA Jurisdiction and Authorities Under FFDCA Prior to FQPA

The FFDCA prohibits the introduction or delivery for introduction into interstate commerce of any food that is "adulterated" (FFDCA section 301(a)). Food is deemed adulterated, among other reasons, "if it is a raw agricultural commodity and it bears or contains *a pesticide chemical* which is unsafe within the meaning of section 408(a); or if it is, or it bears or contains, any *food additive* which is unsafe within the meaning of section 409" (FFDCA section 402(a)(2)(B), (C) (emphasis added)). As discussed more fully below, prior to the enactment of FQPA, some FIFRA "pesticides"--primarily agricultural chemicals--were "pesticide chemicals" under FFDCA; other FIFRA "pesticides"--including antimicrobials--were "food additives" under FFDCA. Thus, pre-FQPA, both EPA and FDA had responsibilities under FFDCA for the regulation of residues in food resulting from use of substances considered "pesticides" under FIFRA. Each agency's pre-FQPA authority is described directly below. Section C in this unit explains the changes in each agency's authority brought about by FQPA.

1. *EPA jurisdiction and authorities.* Under Reorganization Plan 3 of 1970, which created the Environmental Protection Agency, EPA assumed the authority in FFDCA to set tolerances, and exemptions from the requirement of a tolerance, for "pesticide chemicals" (5 U.S.C. App. I, 84 Stat. 2086). At that time, the FFDCA defined a "pesticide chemical," as "any substance which . . . is a 'pesticide' within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)) as now in force or as hereafter amended, and which is used in the production, storage, or transportation of raw agricultural commodities" (FFDCA section 201(q), 21 U.S.C. 321(q) (1994) (amended 1996)). Thus, in addition to registering pesticides under FIFRA, EPA regulated the presence of the residues in food of FIFRA "pesticides" resulting from their use in or on raw agricultural commodities.

It is important to note that the definition of "pesticide chemical" in FFDCA was narrower than FIFRA's definition of "pesticide," and therefore EPA had jurisdiction over residues in or on food for only some FIFRA pesticides. As a practical matter, EPA's authority under FFDCA extended only to pesticides used in agricultural production--e.g., weed killers, fungicides, growth regulators, and insecticides applied to growing crops and stored raw agricultural commodities.

In general, a "pesticide chemical" in or on a raw agricultural commodity was considered "unsafe" unless there was a tolerance or an exemption from the requirement of a tolerance for the pesticide chemical and the residue of the pesticide chemical conformed to the terms of the tolerance or exemption. See FFDCA section 408(a)(1), 21 U.S.C. 346a(a)(1) (1994) (amended 1996). A tolerance sets out the maximum amount of a residue that may legally remain on a particular food. For example, EPA established a tolerance of 0.05 parts per million (ppm) of the weed killer alachlor in peanuts. See 40 CFR 180.249. Any residue of alachlor over that amount would cause the peanuts to be adulterated. An exemption from the requirement of a tolerance represents a determination by EPA that any amount of residue of a specific pesticide chemical expected to be present in or on a raw agricultural commodity as a result of its use would be safe. For pesticides subject to a tolerance exemption, there is no numerical limit on the amount of permitted residue.

In its administration of FIFRA and FFDCA, EPA has adopted policies to ensure the coordinated application of both statutes. Specifically, EPA will not register a pesticide under FIFRA if its use is expected to result in residues in food unless such use complies fully with the FFDCA. See 40 CFR 152.112(g) and 152.113(a)(3).

2. *FDA jurisdiction and authorities.* FDA was (and remains) responsible for the regulation of "food additives" that are not "pesticide chemicals." Prior to the FQPA, the definition of "food additive" included residues in food of certain FIFRA "pesticides" that were not FFDCA "pesticide chemicals." The term "food additive" was defined as: "any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food . . . if such substance is not generally recognized as safe . . . " (FFDCA section 201(s) (1990) (amended 1996)). The definition of "food additive" specifically excluded a "pesticide chemical in or on a raw agricultural commodity" (FFDCA section 201(s)(1)(1990) (amended 1996)). Under this definition, the term "food additive" did not include pesticide chemicals in or on a raw agricultural commodity but did include pesticide chemicals in foods that were not raw agricultural commodities. EPA

[1] The discussion in the paragraph above, however, does not purport to interpret the FFDCA definition, but rather to address the meaning of the terms "processed food" and "processed animal feed" used in FIFRA and EPA's implementing regulations.

was responsible for the establishment of tolerances or food additive regulations under section 409 for pesticide chemical residues in food. FDA was responsible for the establishment of "food additive regulations" for all food additives except those that were also pesticide chemicals. FDA did set food additive regulations for food additives that were FIFRA pesticides, but not FFDCA pesticide chemicals.

As a practical matter, FIFRA pesticides that were regulated by FDA as food additives prior to FQPA were for antimicrobial uses. These FDA-regulated substances included products used as sanitizers and disinfectants for permanent or semi-permanent food-contact surfaces; as materials preservatives in products like adhesives, coatings, and latex solutions that could be used to manufacture food packaging materials or which could otherwise come into contact with food; and as slimicides added during the process of making paper and paperboard used to package food. In sum, for each of these categories, EPA registered antimicrobial substances as a pesticide under FIFRA for the food uses, only after FDA had made a determination that the use of the products were safe under section 409 of FFDCA.

Finally, FDA was (and remains) responsible for enforcement of all FFDCA pesticide tolerances and of food additive regulations. FDA can request seizure of a food or other enforcement action when a pesticide residue on food does not conform to an established tolerance or food additive regulation, or when there is no tolerance, exemption from the requirement of a tolerance, or food additive regulation in place.

C. Changes in EPA and FDA Authority Under FFDCA Resulting From FQPA

While FQPA made a number of changes to both FIFRA and FFDCA, this notice focuses only on changes that alter the regulatory responsibilities of EPA and FDA for establishing FFDCA section 408 tolerances, exemptions from the requirement for a tolerance, and food additive regulations with respect to antimicrobials. Specifically, this section discusses: FQPA definitions of "pesticide chemical," "pesticide chemical residue," and "food additive"; the authority in FFDCA section 201(q)(3) to except substances from the definition of "pesticide chemical"; the transition provisions in FFDCA section 408(j); and the new statutory standard in FFDCA section 408 for the establishment of a tolerance and an exemption from the requirement for a tolerance.

1. *Definitions of "pesticide chemical," "pesticide chemical residue," and "food additive."* FQPA redefined "pesticide chemical" in FFDCA to mean: "any substance that is a pesticide within the meaning of FIFRA, including all active and inert ingredients of such pesticide" (FFDCA section 201(q)(1)). Notably, this new definition eliminates the restriction in the pre-FQPA definition of "pesticide chemical" that the pesticide be used in the production, storage, or transportation of a raw agricultural commodity.

FQPA also amended the definition of "food additive" (FFDCA section 201(s)). The FQPA amendments did not affect the primary definition of "food additive." As before, the term food additive is defined broadly and includes "any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food. . . " (FFDCA section 201(s)). However, the FQPA amendments did revise the food additive definition's exclusions. Specifically, the term "food additive" now excludes "a pesticide chemical residue in or on a raw agricultural commodity or processed food" (FFDCA section 201(s)(1)). As a result of these two changes, antimicrobial pesticides formerly regulated by FDA as "food additives" under section 409 of FFDCA, are now considered "pesticide chemicals" and regulated by EPA under section 408 of FFDCA .

FQPA also added a definition of "pesticide chemical residue" (FFDCA section 201(q)(2)). This term means any residue in or on food of a pesticide chemical or any other substance that results primarily from the metabolism or degradation of a pesticide chemical. This definition makes explicit the long-standing EPA interpretation that the term "pesticide chemical" includes the chemical compounds formed through the breakdown or metabolism of pesticidally active and inert ingredients in a pesticide formulation.

2. *Exception authority.* FQPA added a clause to the subsection defining "pesticide chemical" and "pesticide chemical residue" that gives EPA the authority, in certain circumstances, to "except" or exclude otherwise covered substances from these definitions (FFDCA section 201(q)(3)). Specifically, EPA may exclude a substance from the definition of a "pesticide chemical" or a "pesticide chemical residue" if EPA makes two findings: (1) The presence of the substance in a raw agricultural commodity or processed food is due primarily to natural causes or to human activities not involving the use of the substance for a pesticidal purpose in the production, storage, processing, or transportation of a raw agricultural commodity or processed food; and (2) after consultation with the Secretary of Health and Human Services, the substance is more appropriately regulated under provisions of the FFDCA other than section 402(a)(2)(B) and 408.

3. *Transition provision.* FQPA added a provision to the FFDCA to assure an orderly transition to the new regulatory system. All previously issued regulations under FFDCA section 406, 408, and 409, which authorized the presence in food of any substance that is a pesticide chemical residue, remain in effect unless modified or revoked (FFDCA section 408(j)). Thus, existing food additive regulations issued by FDA for antimicrobial substances that are pesticides remain valid, and food is not adulterated by residues of such substances that conform to the applicable food additive regulations.

4. *Statutory standard for section 408 tolerances and exemptions.* FQPA amended section 408 of FFDCA to establish a new standard for making decisions to establish tolerances or exemptions from the requirement of a tolerance for pesticide chemical residues. In order to establish or leave in effect either a tolerance or an exemption, EPA must conclude that the pesticide chemical residue in food would be "safe" (FFDCA section 408(b)(2)(A)(i), (c)(2)(A)(i)). "Safe" is further defined to mean "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" (FFDCA section 408(b)(2)(A)(ii), (c)(2)(A)(ii)). The amendments also direct EPA to consider a variety of factors in making decisions under the new standard. These factors include: the potential for greater sensitivity or exposure for infants and children to the pesticide chemical residue; and the cumulative effects of the pesticide chemical residue and other substances that have a common mechanism of toxicity. See FFDCA section 408(b)(2)(C) and (D).

5. *Summary.* The FQPA amendments have expanded the definition of "pesticide chemical" in FFDCA to correspond in scope to the definition of "pesticide" in FIFRA. As a result, so long as a substance is a "pesticide" under FIFRA, EPA now has jurisdiction to regulate the substance under both FIFRA and FFDCA. EPA also has the authority to "except" substances from

the definitions of "pesticide chemical" or "pesticide chemical residue." Such an exception would transfer the regulatory responsibility for such substances to FDA, without yielding regulatory authority under FIFRA over the use of the pesticide.
Notwithstanding these changes, all previously issued approvals that allow residues of pesticides in food remain valid under the transition provisions. All pesticides that are EPA's regulatory responsibility under FFDCA are subject to the new safety standard of FFDCA section 408.

II. Background

In addition to considering the changes to the legal framework resulting from FQPA, EPA and FDA evaluated whether the jurisdictional change brought about by FQPA for certain antimicrobial substances resulted in the most efficient regulatory outcome. The agencies took several factors into account in the deliberations and tentatively concluded that an alternative jurisdictional approach for certain antimicrobial substances would be more appropriate. Principally, the two agencies have concluded that the jurisdiction under FFDCA for antimicrobial substances should be allocated in a way that promotes protection of public health, and uses limited public resources efficiently. The factors that the agencies considered are discussed more fully in sections A and B of this unit.

A. Promotion of Public Health

In recent years, the scientific community has identified the contamination of food by pathogenic microbes as both a serious and growing problem affecting the overall safety of the food supply. The Federal government, working through multiple agencies such as FDA, EPA, and the Department of Agriculture, Food Safety and Inspection Service, is using its resources and regulatory authorities to address this problem in a concerted fashion. Some of the more significant initiatives are FDA's Hazard Analysis and Critical Control Point (HACCP) program for the seafood industry, USDA's HACCP program for the meat and poultry industry, and the possible expansion by FDA of HACCP to other segments of the food industry. HACCP starts with the preparation of a hazard analysis for each food processing facility and then a plan designed to prevent hazards from occurring in the production of food through a range of available control techniques and to respond to deviations from the prevention plan.

FDA is especially concerned with a growing problem of pathogens in fruits, vegetables, and unpasteurized juices. FDA's concern extends to both domestic and imported foods. This includes contamination of foods with *Escherichia coli* 0157:H7, which caused a serious human illness outbreak involving unpasteurized apple juice in the fall of 1996, problems associated with *Listeria monocytogenes* in cut vegetables, and others. As noted, FDA considers HACCP to be a state of the art approach to dealing with these problems. For HACCP to be effective, however, regulatory agencies must be sure that industry HACCP plans include controls that will ensure that the public is adequately protected from pathogens in foods. In order to accomplish this, FDA expects that it will, over time, establish a number of performance standards to assure the effective control of pathogens in foods.

FDA and EPA must ensure a coordinated approach if these concerns with microbial contamination are to be effectively addressed. For example, one technique for reducing microbial contamination of foods is the appropriate use of antimicrobial chemicals. Therefore, in evaluating jurisdictional alternatives, the two agencies have tentatively decided to recognize and give considerable weight to the benefits that would result from FDA having broad regulatory authority over the use of antimicrobial chemicals in food processing facilities. This coordinated approach will allow FDA to move forward in proposing, for instance, that juices sold for human consumption be subject to a process that reduces, controls, or eliminates pathogens, and therefore, will be equivalent to pasteurization in its effect. An equivalent process may include the use of antimicrobials. Antimicrobials must not only kill pathogens; assurance is needed that after antimicrobials are applied, the food meets the performance standard that FDA has determined is necessary to protect the public health. Furthermore, the food must meet the performance standard in a real world production environment.

The use of antimicrobials in food production may be a complex undertaking. For example, the use of an antimicrobial that might not be capable of meeting the performance standard by itself at one processing step can be combined with other pathogen reduction efforts at other processing steps. It is important that together, these controls achieve the desired public health objective. The total process, including the antimicrobial use, can be considered in determining whether the process is adequate to protect the public from pathogens.

FDA and EPA, after considering these situations and FDA's role and experience in dealing with pathogens in foods, have tentatively concluded that FDA should have broad regulatory authority over the use of antimicrobial substances in food processing facilities. Presently, FDA has regulatory authority over such substances when used in or on processed edible foods. However, the intended use of antimicrobial substances on certain food-contact articles and on raw agricultural commodities is within EPA's regulatory purview. Therefore, the proposed allocation of jurisdiction, described in Unit III. of this notice, would expand FDA's regulatory authority to include antimicrobial substances used on certain food-contact articles and on raw agricultural commodities in food processing facilities.

B. Efficient Use of Public Resources

Congress' amendment to the definition of "pesticide chemical residue" in FFDCA, which now includes such residues on processed food in addition to those residues on raw agricultural commodities, may be viewed as streamlining the regulatory system by consolidating responsibilities for regulating "pesticides" with antimicrobial activity in EPA. One consequence of FQPA is to allow EPA to coordinate the parallel decision-making process of registration under FIFRA and tolerance setting under FFDCA for antimicrobial substances that are "pesticides" under FIFRA. This is consistent with other FQPA amendments that direct EPA to streamline its registration process for non-food use antimicrobial pesticides. See FIFRA section 3(h).

The FQPA amendments did not affect the current regulatory framework in FIFRA which exempts, by statute, certain microbes in or on processed food from the definition of "pest." Nor did these amendments affect the Administrator's authority to declare by regulation that certain microbes are not "pests." Thus, antimicrobials directed against microbes that are in or on processed edible food remain subject to FDA's regulatory authority as food additives post-FQPA.

However, this new regulatory scheme created by FQPA differs significantly from the previous regulatory scheme in place for over 25 years for certain indirect food additives. Antimicrobial substances applied to or incorporated in food-contact articles but not used directly in or on edible processed food were regulated by FDA as food additives

because of their potential migration to food. FDA and EPA have extensive regulatory experience with this pre-FQPA jurisdictional scheme and have developed considerable understanding and experience with the policies and procedures of the respective agencies.

To the extent that the regulated community has expressed its views, it expressed a preference for retaining, to the greatest extent possible, the pre-FQPA regulatory scheme regarding antimicrobials in or on food-contact articles. Such an approach, it argued, could involve fewer delays because ongoing reviews would continue at FDA where such reviews have historically been performed. Moreover, by retaining the pre-FQPA scheme, products regulated by FDA would not be subject to the requirement in FFDCA section 408 to pay a fee.

Implementing the new statutory scheme, therefore, would involve adjustments for both the regulated industry and the Federal agencies. During the transition, decision-making would likely experience considerable delays. Moreover, during the transition both agencies would face additional, new work associated with any transfer of responsibilities. To the extent that the agencies use rulemaking to restore the pre-FQPA allocation of jurisdiction, these problems are reduced.

In conclusion, EPA and FDA weighed all of these considerations in formulating the approach set forth in Unit III. of this notice regarding the allocation of regulatory responsibility for antimicrobial substances used in food-contact articles and food packaging materials. The agencies reached decisions that they believe reflect the most appropriate balance of the competing considerations based upon currently available information. This proposed allocation of responsibilities is described more fully in Unit III. below.

III. Allocation of Regulatory Responsibilities Under FFDCA in Light of FQPA Amendments

A. Summary

EPA and FDA propose to divide the universe of antimicrobial substances regulated under the FFDCA, and potentially affected by the FQPA amendments, into the following categories. Some of these categories are the consequence of statutory provisions; others would be established through rulemaking. Sections B. through F. of this unit discuss each of the following categories in detail. Section G. of this unit provides a table summarizing the categories.

1. *Antimicrobial substances directed against microbes in or on edible food, animal drinking water, and process water that contacts edible food (see section B. of this unit).*

a. EPA: antimicrobials used in or on raw agricultural commodities, or in process water contacting such commodities, in the field, or in a facility where only one or more of the following activities occurs: washing, waxing, fumigating, and packing of raw agricultural commodities, or during transportation of such commodities between the field and such facility; antimicrobials used in or on raw agricultural commodities for consumer use; antimicrobials that are not drugs used in animal drinking water.

b. FDA: antimicrobials used in or on processed food or processed animal feed; antimicrobials used in or on raw agricultural commodities or in process water contacting such commodities (other than those described in section III.A.1.a. of this unit), in a facility where such commodities are prepared, packed, or held (hereinafter "food processing facility" (refer to section B. of this unit for a description of such facilities));

2. *Antimicrobial substances directed against microbes on permanent or semi-permanent food-contact surfaces (see section C. of this unit).* [Note: impregnated antimicrobials are addresssed in paragraphs 4. and 5. below.]

a. EPA: sole jurisdiction.

b. FDA: no jurisdiction.

3. *Antimicrobial substances used in the production of food packaging materials and in or on such finished materials including plastic, paper, and paperboard (see section D. of this unit).*

a. EPA: no jurisdiction.

b. FDA: sole jurisdiction.

4. *Antimicrobial substances used in production of food-contact articles, other than food packaging, for which there is no ongoing intended antimicrobial effect in the finished article (see section E. of this unit).*

a. EPA: no jurisdiction.

b. FDA: sole jurisdiction.

5. *Antimicrobial substances incorporated into food-contact articles, other than food packaging, that have an intended antimicrobial effect on the finished article itself, including the article's surface (see section F. of this unit).*

a. EPA: jurisdiction over active pesticidal ingredients.

b. FDA: jurisdiction over inert ingredients in such pesticides.

B. Antimicrobial Substances Directed Against Microbes in or on Edible Food, Animal Drinking Water, and Process Water that Contacts Edible Food

The FQPA amendments did not change FDA's and EPA's jurisdiction over antimicrobials used to control microbes on raw agricultural commodities and processed food (within the meaning of the term "processed food" in 40 CFR 152.5). Antimicrobial substances directed against microbes in water in which raw agricultural commodities are washed, or directed against microbes in or on raw agricultural commodities, whether the antimicrobials are added to the commodities directly, or indirectly through the addition of the antimicrobial to water in which the commodities are washed, are subject to EPA's regulatory authority as "pesticides" under FIFRA and "pesticide chemicals" under FFDCA. This category includes antimicrobial substances used in the washing of fresh fruits and vegetables. EPA also regulates antimicrobial substances added to drinking water of cattle, poultry, and other food animals.

Antimicrobial substances directed against microbes in or on processed food are not subject to EPA's regulatory authority either under FIFRA or FFDCA. This is a result of a jurisdictional division that existed both before and after the FQPA amendments. The definition of "pest" in EPA's implementing regulation at 40 CFR 152.5(d) specifically excludes "microorganisms . . . on or in processed food . . . ." See Unit II.A. of this notice. Therefore, antimicrobial substances directed against microorganisms on or in processed food are not "pesticides" under FIFRA. Since these substances are not pesticides under FIFRA, they are not "pesticide chemicals" under FFDCA. This category includes substances such as those listed in 21 CFR 172.165, 173.315, and 173.320. EPA has had, and will have, no role in the regulation of substances for these uses; they do not require registration under FIFRA nor tolerances under FFDCA section 408.

Many existing and proposed applications involve the addition, inside a food processing facility, of antimicrobial substances to process water that contacts fruits, vegtables, or other foods. According to the Memorandum of Understanding (MOU) between FDA and EPA on the jurisdiction over substances in drinking water (44 FR 42775, July 20, 1979), FDA has responsibility under FFDCA section 409 for water, and substances in water (including antimicrobials) used in food

and for food processing.[2] (44 FR 42775, July 20, 1979). Under this MOU, EPA has, in the past, refrained from regulating such antimicrobial substances under FIFRA, FFDCA, the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*, and the Toxic Substances Control Act, 15 U.S.C. 2601 *et seq.* More recently, however, EPA has exercised its authority over antimicrobials added to process water inside a food processing facility, if that water contacts a raw agricultural commodity, whether or not such raw agricultural commodity is later subjected to processing.

FQPA did not alter the regulatory framework in FIFRA that determines whether antimicrobial substances used in or on raw agricultural commodities or processed food are classified as FIFRA "pesticides." Despite this fact, a more efficient allocation of jurisdiction over antimicrobials that are used in or on both raw agricultural commodities and processed food appears warranted, given FDA's interest in regulatory authority over such substances in food processing facilities.

As discussed above, under the current regulatory scheme, whether EPA or FDA has jurisdiction over an antimicrobial used on edible food depends on whether the antimicrobial substance is applied to a raw agricultural commodity or processed food. Yet it is sometimes difficult to determine whether certain activities constitute "processing" or are merely post-harvest treatment activities. EPA made such a distinction for dried commodities (61 FR 2386, January 25, 1996) and found that, in the legislative history of FFDCA section 408, there was ambiguity in whether certain types of drying were considered "processing." Moreover, raw agricultural commodities that are treated with antimicrobials inside a food processing establishment or facility may be culled, with some of these commodities undergoing further processing and others leaving the facility without any further processing. This practice makes it difficult to determine which specific commodities will remain "raw agricultural commodities" and which will be processed.

The agencies believe that it makes little sense to have the same antimicrobial substance require both a section 408 tolerance and a section 409 food additive regulation when the food, whether raw or processed, is undergoing the same activity, e.g., washing. Therefore, EPA intends to propose an amendment to 40 CFR 152.5 to exclude from the definition of "pest" microbes that are in or on raw agricultural commodities or in process water used on such commodities in a food processing facility. Thus, antimicrobials that are both used inside a food processing facility and applied either directly to edible food, whether raw agricultural commodities or processed food, or to process water that contacts such edible food would not be FIFRA "pesticides" nor FFDCA "pesticide chemicals," but instead would be subject to regulation as FFDCA "food additives" under FFDCA section 409.

1. *Facilities.* The proposed change in the allocation of jurisdiction over antimicrobials used in or on raw agricultural commodities, described in section III.A.1.b. of this unit, is limited to those commodities in "food processing facilities." The term "food processing facility" would include those locations where food is prepared, packed, or held, except for in the field where raw agricultural commodities are subject to certain post-harvest treatments. Thus, the term includes slaughtering or manufacturing facilities for meat, poultry, seafood, and produce; retail facilities such as restaurants, grocery stores, institutions, and food vending operations; and mobile food facilities such as trains, planes, and vessels. FDA's jurisdiction over antimicrobials that are used on "processed" food in such locations remains unchanged by FQPA; such antimicrobials remain subject to regulation as food additives under section 409 of FFDCA.

EPA and FDA realize that certain food processing facilities are part of a farming operation where antimicrobial use on raw agricultural commodities would not constitute uses described in section III.A.1.a. of this unit. For example, egg sanitizing may occur "on the farm" as part of an operation with the same types of food handling activities as those that occur in other food processing facilities. Antimicrobials used in such an operation would be subject to food additive approval by FDA.

2. *Ethylene and propylene oxides.* As a result of the agreement between FDA and EPA, the allocation of regulatory jurisdiction under FFDCA over antimicrobial substances used on edible food would, for the most part, correspond to the allocation that existed prior to enactment of FQPA. As discussed, the major change would affect antimicrobial substances used on raw agricultural commodities inside food processing facilities. There is, however, an additional set of antimicrobial uses--ethylene oxide and propylene oxide use on whole and ground spices--for which the proposed allocation would represent a difference from the current regulatory scheme. All uses of ethylene oxide on spices have been regulated by EPA under FFDCA section 408. Since these uses of ethylene oxide take place inside food processing facilities, the proposed allocation would give FDA exclusive jurisdiction over these uses under FFDCA section 409. This situation is further complicated by the fact that these active ingredients also have insecticidal properties that could only be regulated by EPA under both FIFRA and FFDCA. EPA and FDA are considering, in light of the long history of regulation of this chemical and these specific uses by EPA under FFDCA section 408, whether to address the uses differently from the general approach described above. At a minimum, EPA's proposed rule will seek public comment on the implications for different regulatory schemes for these uses under FFDCA.

In summary, FDA and EPA agree that because it is difficult to ascertain whether certain food will remain a raw agricultural commodity or become a processed food when entering food processing facilities, it would be more efficient to allocate regulatory responsibility for antimicrobials that are used on raw agricultural commodities in such facilities to FDA. Moreover, it would be consistent with the promotion of public health and FDA's interest in the application of HACCP principles to food production. Thus, antimicrobials that are used inside a food processing facility, including those used in process water contacting edible food, regardless of whether the food is "processed," would not be FIFRA "pesticides" nor FFDCA "pesticide chemicals," but instead would be "food additives" under FFDCA section 409.

Antimicrobials that are directed against microbes in or on raw agricultural commodities, as described in section III.A.1.a. of this unit, would remain FIFRA "pesticides" and FFDCA "pesticide chemicals" and thus require pesticide registration under FIFRA and a tolerance or exemption from the requirement of a tolerance under FFDCA. Antimicrobials that are used by the consumer in or on raw agricultural commodities in the household would remain FIFRA "pesticides" and thus would also require FIFRA registration. Moreover, such antimicrobials would be FFDCA "pesticide chemicals," but would not require a tolerance or an exemption from the requirement of a tolerance where such food is not "held for sale" within the meaning of FFDCA. Nonetheless, EPA will continue to

[2]Under the MOU, EPA has regulatory responsibility for substances added to a public drinking water system before the water enters a food processing establishment.

conduct the same safety evaluation of dietary exposure to antimicrobials used in consumer households as it does for tolerances issued under FFDCA section 408.

3. *Labeling of products used in retail facilities.* Historically, FDA has had limited involvement in the regulation and enforcement activities affecting retail establishments, including restaurants and grocery stores. FDA has directed its efforts toward providing technical assistance to state and local governmental agencies that, as a practical matter, have primary responsibility for regulating the retail segment of the food industry. Providing a model food code has been the central mechanism through which FDA, as a lead Federal food control agency, has promoted uniform implementation of national food regulatory policy among the several thousand Federal, state, tribal, and local agencies that carry out the primary oversight of this industry component.

Although the food code provides referenced information about the approved use of antimicrobials in or on food, EPA and FDA believe that directions for use should be included on the labeling of such substances. The labeling would ensure that a person using such a product in the retail setting will have adequate directions for use readily available. Therefore, as part of its exercise of regulatory authority over the use of those antimicrobial substances, FDA is planning to propose to require that a manufacturer provide adequate directions for use to ensure compliance with the applicable food additive regulation. These directions would include the conditions of safe use required under FFDCA section 409(c)(1). The conditions of safe use require adequate directions to achieve the intended technical effect.

Consistent with its authority under FFDCA section 409(c)(3)(B), FDA believes that a product that is intended to achieve an antimicrobial effect may require a label with adequate directions to achieve such effect so that the use of the product would not promote deception of the consumer. Specifically, section 409(c)(3)(B) prohibits FDA from approving a food additive if the proposed use would result in the misbranding of food within the meaning of FFDCA section 403(a)(1). Under section 403(a)(1) of FFDCA, a food is misbranded if its labeling is false or misleading in any particular.

Section 201(n) of the FFDCA provides context to what is meant by "misleading" in FFDCA section 403(a)(1). Under FFDCA section 201(n), when determining whether a product is misbranded, FDA is to take into account not only the representations made about the product, but also the extent to which the labeling fails to reveal facts material in light of such representations made or suggested in the labeling or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual. See 21 CFR 1.21. FDA believes that directions to achieve an antimicrobial's intended technical effect may be a material fact with respect to the consequences which may result from the use of the antimicrobial. For example, an antimicrobial that is intended to kill pathogenic microbes and fails to provide directions to achieve such effect may result in adverse consequences to the consumer from ultimate consumption if the antimicrobial is not used appropriately. Therefore, if such labeling is required for the antimicrobial's approval for use as a food additive, the absence of such labeling would constitute misbranding under FFDCA section 403(a)(1). In general, FDA believes that the concept of "material fact" is one that should be applied on a case-by-case basis.

C. Antimicrobial Substances Used to Sanitize or Disinfect Permanent or Semi-Permanent Food-Contact Surfaces

Products intended for the uses in this category have the same regulatory status under FIFRA, both before and after FQPA. Because they are directed against pests, i.e., against microbes that are not excluded by FIFRA or implementing regulations from the definition of "pest," antimicrobial substances used to sanitize or disinfect environmental surfaces are "pesticides" under FIFRA. This category includes antimicrobial substances that are used in or on equipment in food production facilities such as farm bulk tanks and milking machines; in manufacturing facilities such as meat saws/grinders, shellfish skimmers, and in-plant product conveyance systems; in retail food facilities such as slicers, cutting surfaces, dishwashing machines, and kitchen utensils and tableware; and in mobile facilities such as bulk tankers used for liquid eggs or dairy products. Such products must be registered by EPA under FIFRA prior to marketing.

The use of these products is also widely specified and referenced in FDA's model codes pertaining to the milk, retail food, and shellfish industries. These products are considered to be "public health pesticides" under FQPA and, therefore, EPA will coordinate with FDA as part of the PHS in determining the safe and necessary use of these products.

As explained in Unit I.A. of this notice, EPA does not regard food-contact surfaces as "processed food" within the meaning of FIFRA section 2(k) and the regulations at 40 CFR 152.5(d). EPA and FDA have tentatively agreed to treat substances used to disinfect reusable food packaging materials, e.g. beverage containers, differently from antimicrobial pesticides used to disinfect or sanitize environmental surfaces (refer to discussion in section D. of this unit).

Before the FQPA amendments, products used to sanitize or disinfect permanent or semi-permanent food-contact surfaces were not considered "pesticide chemicals" under FFDCA because they were not used in the production, storage, or transportation of raw agricultural commodities. Therefore, these products were regulated as "food additives" by FDA under FFDCA section 409. Food additive regulations for this category of products appear in 21 CFR 178.1010.

Under FQPA, products in this category are "pesticide chemicals"because they are FIFRA pesticides, and thus, no longer within the scope of the term "food additive." Consequently, they are regulated under FFDCA section 408 by EPA. Because of the transition provisions in FQPA, previously issued food additive regulations remain in effect for substances in this category.

FDA and EPA have agreed to propose that EPA should retain jurisdiction over these products, rather than promulgate rules that would restore the pre-FQPA regulatory scheme. Many of the products in this category have non-food uses at other sites, especially sites involving potential exposure to children or other potentially sensitive groups in the general population. As a policy matter, EPA has decided it will conduct a more extensive risk assessment of such non-food uses to take into account the aggregate exposure of sensitive population subgroups. See EPA PR Notice 97-1 and FFDCA section 408(b). As part of its assessment of aggregate exposure, EPA would also evaluate the potential dietary exposure to the antimicrobial substance. Because EPA will be routinely evaluating the non-food uses of these products, the two agencies believe it would be more efficient for EPA to regulate the food uses of these products along with the non-food uses.

D. Antimicrobial Substances Used in the Production of Food Packaging Materials and in or on Such Finished Materials

Under FIFRA, antimicrobial substances used in the production of food packaging materials, or used in or on such materials, are considered "pesticides." This category of products includes slimicides used in the manufacture of food-contact paper and paperboard, and preservatives added to aqueous suspensions for adhesives or coatings. Also included are antimicrobials incorporated into polymers or finished paper and paperboard coatings to kill microbes in the final food packaging or in the food that contacts such packaging and sanitizers applied to food containers such as aseptic packaging. As discussed in Unit I.A. of this notice, none of these food packaging materials is considered a "processed food" under FIFRA regulations.

The FQPA amendments altered the regulatory authority over some of these products under FFDCA. Prior to FQPA, these antimicrobial substances were regulated under FFDCA section 201(s) as food additives, GRAS substances, or prior sanctioned substances. Even though many of these substances were FIFRA "pesticides," they were not used in the production, storage, or transportation of raw agricultural commodities. Consequently, FDA exercised authority over these chemicals in food under FFDCA. FDA food additive regulations for some of these chemicals appear in, for example, 21 CFR 175.105, 176.170, 176.300, and 178.1005. After FQPA, many of these products in this category are considered "pesticide chemicals" under FFDCA, because they are "pesticides" under FIFRA. Because of the exclusion of a "pesticide chemical" from the definition of "food additive," these substances are no longer "food additives" and are not within FDA's regulatory responsibility. Thus, EPA is now responsible for the establishment of tolerances or exemptions from the requirement of a tolerance for their residues in food under FFDCA section 408.

EPA and FDA have determined that antimicrobial substances in this category should be subject to regulation as food additives. This category includes two types of products: (1) Antimicrobial substances that are impregnated into food packaging that have an ongoing intended antimicrobial effect on the food or in or on the packaging itself, and (2) antimicrobial substances used in the production of food packaging that have no ongoing intended antimicrobial effect beyond the material production process.

For the first category, EPA plans to propose that FDA have regulatory authority over those antimicrobials impregnated in food packaging that are used against microbes on raw agricultural commodities and those used against microbes in or on the packaging itself. Antimicrobials used to kill microbes on processed food are not pesticides; therefore, FDA retains authority over food packaging impregnated with an antimicrobial that is intended to kill microbes on the packaged, processed food.

The second category includes antimicrobial substances used in the production of food packaging that have no ongoing intended antimicrobial effect in the finished materials. They are "pesticides" under FIFRA and therefore "pesticide chemicals" under FFDCA, post-FQPA. EPA intends to propose a regulatory scheme that gives FDA responsibility for this latter category of products for two reasons. First, antimicrobial substances in this category that kill microbes in materials used in the production of food packaging are part of the formulation of such materials. These substances include adjuvants and other components of the food packaging materials that are regulated as food additives by FDA. Government resources would be better used if these antimicrobial substances were regulated as food additives in conjunction with the adjuvants and other packaging components in which they are used. This approach is also more efficient for the regulated community for the same reason. The regulated community has expressed a strong preference for continuation of FDA regulation of these products under FFDCA. For both categories, the control of microbes in or on food packaging, as for example in the production of aseptically packaged food, is a very important aspect of an effective food safety program, such as HACCP. The two agencies believe that FDA will be better able to protect the public health by administering these regulatory programs--HACCP and use of antimicrobial substances in or on food packaging--than if jurisdiction were divided between EPA and FDA.

EPA intends to propose to amend the definition of "pest" in 40 CFR 152.5(d) to exclude microbes in or on food packaging or in materials used in the production of such packaging. As a result of such an amendment, antimicrobial substances directed against such microbes would not be "pesticides" under FIFRA, and thus, would not be "pesticide chemicals" under FFDCA. Instead, such products would be "food additives" subject solely to FDA's regulatory authority.

E. Antimicrobial Substances Incorporated into Food-Contact Articles, Other Than Food Packaging, with No Pesticidal Effect in the Finished Article

Antimicrobial substances incorporated into food-contact articles, other than food packaging, have historically been and are still considered by EPA as "pesticides" under FIFRA. This category includes a wide variety of registered pesticide products such as: preservatives used in latex solutions, adhesives and coatings intended for use in food-contact articles, and antimicrobial substances used in the manufacture of conveyer belts, cutting boards, plastic tubing, and other articles that come in contact with food during its storage, transportation, processing, or preparation. These antimicrobial substances may or may not have an ongoing antimicrobial effect in the finished food-contact article. Only those that have no intended ongoing antimicrobial effect in the finished article are discussed in this unit. Those with an ongoing pesticidal effect are considered in section F. of this unit.

Similar to products described in section D. of this unit, the regulatory status under FFDCA of antimicrobial substances incorporated into food-contact articles, other than food packaging, with no intended ongoing antimicrobial effect in the finished articles was changed by FQPA. Prior to FQPA, these products were regulated as "food additives" by FDA. Food additive regulations for these products appear in 21 CFR 175.300 and 177.2600, for example. After FQPA, these products are "pesticide chemicals" under FFDCA, and thus, within the regulatory authority of EPA.

Again, just as for antimicrobials used on or in food packaging materials, EPA and FDA have agreed that the regulatory responsibility for these antimicrobial substances should be similar to that existing before the FQPA amendments. EPA will propose to amend the definition of "pest" in 40 CFR 152.5(d) to exclude microbes in materials used in the production of food-contact articles, other than food packaging (which was previously discussed in section D. of this unit). The result of such a rulemaking would be that products for uses in this category would no longer be "pesticides" under FIFRA and would be subject to regulation as "food additives" under FFDCA section 409, instead of as "pesticide chemicals" under section 408 of FFDCA.

The reasons for this proposed action are similar to those described above for antimicrobial substances used in or on food packaging materials with no intended ongoing antimicrobial effect in the finished packaging. Again, these substances are part of the formulations of materials used to produce food-contact articles. Regulation of these substances as food additives along with the other adjuvants and components would result in a more efficient use of government resources. Further, these antimicrobial substances have no intended ongoing antimicrobial effect in the finished food-contact article. Therefore, no claims for antimicrobial activity (i.e., pesticidal effect), which would be under the jurisdiction of EPA, are made for the finished food-contact article.

F. Antimicrobial Substances Incorporated into Permanent or Semi-Permanent Food-Contact Articles, Other Than Food Packaging, With an Ongoing Antimicrobial Effect

This category covers antimicrobial substances incorporated into permanent or semi-permanent food-contact articles such as conveyer belts, cutting boards, and plastic tubing for the purpose of having a pesticidal effect during the continuing life of the product, either on the food-contact materials themselves (self-protection) or on food that contacts the treated article. Antimicrobial substances intended to control or mitigate "pests" are "pesticides" under FIFRA. Therefore products in this category are subject to EPA regulation under FIFRA to the extent that the target microorganisms are "pests." It should be noted that, if the presence of the antimicrobial substance in the food-contact article is intended only to control microbes in or on "processed food," such a substance would not be considered a "pesticide" under FIFRA because microbes in or on processed food are not "pests."

At present, there are no products registered as pesticides by EPA that are intended to be incorporated in permanent or semi-permanent food-contact articles for a pesticidal purpose on the food that contacts such articles. Several companies, however, have been marketing unregistered products with such claims. For example, several companies make plastic cutting boards impregnated with an antimicrobial substance and have marketed these products with claims that the presence of the pesticidal substance can kill or control specific pathogenic bacteria or germs that cause food borne illnesses. Similar products could include antimicrobial countertops, housewares, conveyer belts, gloves, shelving, and sponges. Although no company has actually applied for registration of such product, several have approached EPA concerning their interest in marketing such products.

Prior to FQPA, products in this category would have been both "pesticides" and "food additives," but with the FQPA amendments, these products are "pesticide chemicals" subject only to EPA regulation. FDA and EPA have tentatively decided to leave the allocation of responsibility largely as it exists after the FQPA amendments. Under this scheme, EPA will exercise FIFRA jurisdiction over the products, as well as FFDCA jurisdiction over the pesticide active ingredients, but FDA will regulate the inert ingredients in these products. If a company seeks to market an antimicrobial food-contact product, e.g. an antibacterial cutting board, EPA would be responsible for registration of the product under FIFRA.

The primary reason for EPA retaining responsibility for these products, as contrasted with its approach to the category described in section E. of this unit, is EPA's concern about claims made for the antimicrobial efficacy of these products. EPA believes that in determining whether to register such products, it would be critical not only to evaluate potential dietary and other risks, but also to ensure that, when public health claims are made, the products actually perform as claimed. EPA has considerable experience evaluating antimicrobial efficacy and making decisions about the labeling of pesticide products with differing levels of efficacy. Therefore from both an efficiency and public health protection perspective, EPA appears to be the more appropriate agency to exercise regulatory responsibility for these products.

EPA would also propose to establish a tolerance or an exemption from the requirement of a tolerance for the active ingredient in the product, under FFDCA. EPA would further need to determine under FFDCA that the inert ingredients were allowed to be present in food because, as explained before, EPA will not register a pesticide unless all ingredients in the product have the necessary approvals. Ordinarily, because the inert ingredients are part of a pesticide product, they would be regarded as "pesticide chemicals" and EPA would establish a tolerance or exemption from the requirement for a tolerance for such ingredients. As a practical matter, however, EPA expects that these antimicrobial products would be manufactured by adding antimicrobial active ingredient chemicals to products already in compliance with the applicable food additive regulations. Therefore, all of the inert ingredients in such products would likely already be regulated or permitted by FDA under the FFDCA. EPA and FDA have tentatively decided that EPA would "except" such products from the definition of "pesticide chemical" on a case-by-case basis, making the inert substances "food additives" and subject to section 409 of FFDCA. Such exceptions would be issued under the authority of FFDCA section 201(q)(3). See Unit I.C. of this notice.

G. Summary of Jurisdictional Changes

The following table summarizes the status of FDA and EPA jurisdiction for antimicrobial substances under FFDCA both before and after FQPA. This table also summarizes the jurisdictional allocation that EPA intends to propose through rulemaking.

Table 1.—EPA and FDA Jurisdiction Under FFDCA

Product Category	Before FQPA	After FQPA	After Planned EPA Rulemaking
1. Antimicrobial substances directed against microbes in or on edible food, antimicrobials that are not drugs used in animal drinking water, and antimicrobials used in process water that contacts edible food (Unit III.B.)	EPA & FDA	EPA & FDA	EPA–antimicrobials that are not drugs used in animal drinking water and antimicrobials in or on raw agricultural commodities or process water contacting such commodities in the field, or in a facility where only one or more of the following activities occurs: washing, waxing, fumigating, and packing of raw agricultural commodities, or during transportation of such commodities between the field and such facility; and antimicrobials used in or on raw agricultural commodities for consumer use. FDA–in or on processed food or processed animal feed; in or on raw agricultural commodities or process water contacting such commodities in a food processing facility as described in Unit III.A.1.b.
2. Antimicrobial substances directed against microbes on permanent or semi-permanent food-contact surfaces (Unit III.C.)	FDA	EPA	EPA
3. Antimicrobial substances used in the production of food packaging materials and in or on such finished materials, including plastic, paper, and paperboard (Unit III.D.)	FDA	EPA	FDA
4. Antimicrobial substances used in production of food-contact articles, other than food packaging, for which there is no ongoing intended antimicrobial effect in the finished article (Unit III.E.)	FDA	EPA	FDA
5. Antimicrobial substances incorporated into food-contact articles, other than food packaging, that have an intended antimicrobial effect on the finished article itself, including the article's surface (Unit III.F.)	FDA	EPA	EPA (active ingredients) and FDA (inert ingredients)

IV. Processed Food

This section provides guidance on a term that is important in defining the categories, and the resulting jurisdiction of FDA and EPA. Specifically it addresses what qualifies as a "processed food" under FIFRA.

Although FQPA and the agencies' subsequent policy agreement on their proposed approach to regulation of antimicrobials largely eliminated the importance of the distinction between raw and processed food for purposes of FFDCA tolerance setting, this distinction still affects the jurisdiction of EPA and FDA under both FIFRA and FFDCA over antimicrobial substances. Three of the proposed categories (Unit III.B., D., and F. of this notice) are based, in part, on whether the antimicrobial substance is directed against microbes on an article that is a "processed food" within the meaning of FIFRA. As explained below, FDA and EPA have developed guidance to help in the interpretation of this FIFRA term.

EPA has tentatively decided that the following post-harvest activities do not constitute processing, and that food subjected to these activities would not be considered processed food: washing, coloring, waxing, hydro-cooling, refrigeration, shelling of nuts, ginning of cotton, and the removal of leaves, stems, and husks. EPA has tentatively concluded that the following activities constitute processing and that any food subjected to these activities becomes a "processed food": canning, freezing, cooking, pasteurization or homogenization, irradiation, milling, grinding, chopping, slicing, cutting, or peeling.

In determining which operations would be considered processing, EPA considered how such actions or operations are categorized, either explicitly or implicitly in FFDCA or its legislative history. For example, FFDCA defines a "raw agricultural commodity" as "any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing" (FFDCA 201(r)). This definition explicitly categorizes washing and coloring as non-processing operations and implicitly categorizes peeling as processing.

Similarly, the statute expressly lists several operations as qualifying as processing--canning, cooking, freezing, dehydration, or milling (FFDCA 201(gg)); see FFDCA section 402(a)(2)(C) (1990). From these examples EPA extracted the following guiding principle: processing operations are ones that alter the general state of the commodity, while non-processing operations, like harvesting, are designed only to isolate or separate the commodity from foreign objects or other parts of the plant. If EPA were writing on a clean slate, it perhaps would classify coloring differently. However, given the lack of intrusiveness involved in the coloring of certain commodities (e.g., oranges), EPA believes that categorizing coloring for such commodities as not processing is consistent with the guiding principle outlined above.

EPA has issued a policy statement under the FFDCA interpreting the term

"raw agricultural commodity" and by inference "processed food" for foods that have been subjected to drying (61 FR 2386, January 25, 1996) (FRL–4992–4). Briefly, this policy states that a "raw agricultural commodity" becomes a "processed food" when it is dried, unless the purpose of the drying is to facilitate transportation or storage of the commodity prior to processing. As a practical matter, this policy means that some vegetables and fruits, such as grapes, become processed food when the commodity is dried. On the other hand, hay, nuts, rice, beans, corn, other grasses, legumes, and grains remain raw agricultural commodities even though they may have undergone some drying. EPA believes the distinction set forth in this prior FFDCA interpretation is reasonable and intends to follow it in implementing the term "processed food" under FIFRA.

The term "food processing facility," described in Unit III.B. of this notice, would include those facilities where food is subject to activities that constitute "processing" unless such activities fall within the exceptions for post-harvest treatments described earlier in this section. Included within the meaning of the term "food processing facility," are those facilities where meat and poultry are slaughtered or otherwise processed subject to the Federal Meat Inspection Act, 21 U.S.C. 601 *et seq.*, and Poultry Products Inspection Act, 21 U.S.C. 451 *et. seq.* Also included within that term are facilities where antimicrobials are used in egg washing or processing subject to the Egg Products Inspection Act, 21 U.S.C. 1301 *et seq.* Finally, the term also includes fish processing operations, commercial fishing vessels, and retail food establishments.

Processing activities include most food handling activities, including those that are done to a carcass post-slaughter. Such activities include skinning, eviscerating, and quartering. Because such post-slaughter activities constitute "processing," the meat that is subject to such activities is "processed food" within the meaning of that term in 40 CFR 152.5(d). Therefore, the regulatory status of antimicrobials that are used on meat after slaughter is unchanged by FQPA and they are subject to regulation by FDA as food additives. Similarly, seafood that is harvested is "processed." Activities done post-harvest to seafood include, among other things, handling, storing, preparing, heading, eviscerating, shucking, or holding (21 CFR 123.3(k)(1)). Antimicrobials that are used in or on seafood, post-harvest, would also be subject to regulation by FDA as food additives. In summary, FDA's regulatory authority over the antimicrobial substances used on meat, poultry, and seafood is unchanged by FQPA because such uses constitute those that are on "processed food," not raw agricultural commodities.

V. Implementation of Legal and Policy Interpretations of FFDCA Jurisdiction

This unit of the notice discusses how EPA and FDA propose to implement the legal and policy interpretations. Unit V.A. discusses the rulemaking being planned by EPA to implement the jurisdictional allocations discussed in Unit III. of this notice. Unit V.B. describes how EPA will handle both new and pending petitions and Threshold of Regulation (TOR) requests (see 21 CFR 170.39), that are for antimicrobial pesticides that the agencies have determined are now under EPA authority. (A petition or TOR request is considered "new" if it is submitted after publication of this notice.) Finally, Unit V.C. of this notice explains the regulatory status of products that are currently registered as pesticides and bear labeling directions for use against microorganisms that would no longer be "pests" under EPA's intended rulemaking.

A. Schedule for EPA Rulemaking to Implement Legal and Policy Interpretations

EPA and FDA have agreed that EPA will undertake rulemaking to redefine "pest." If these regulations are promulgated in final as they are proposed, the result would be to exclude from FIFRA regulation as "pesticides" any antimicrobial substance: (1) Used in or on raw agricultural commodities in a food processing facility and in process water contacting such commodities; (2) used in the production of food packaging materials and in or on such finished materials; and (3) used in materials that are incorporated into food-contact articles, other than food packaging, that have no continuing antimicrobial effect in the finished article. The exception for processed food and processed animal feed in 40 CFR 152.5 remains intact. The practical effect of this change would provide FDA with regulatory authority over antimicrobials used in or on "edible" food (including both processed food and raw agricultural commodities) in a food processing facility. EPA plans to include this redefinition in the proposed rules being issued under FIFRA section 3(h) and 25(a) in response to FQPA mandate to promulgate new regulations to streamline its registration of antimicrobial pesticides. The proposed rules should be issued in 1998, and a final rule redefining "pest" should be published in the first half of 1999.

B. Antimicrobial Substances Regulated Completely by EPA

As discussed above, EPA has several categories of antimicrobial substances within its regulatory authority. Pursuant to the proposed allocation of jurisdiction, EPA intends to retain regulatory authority for antimicrobials that are: (1) Directed against microbes in or on raw agricultural commodities or process water contacting such commodities as described in Unit III.A.1.a. of this notice; (2) used to sanitize or disinfect food-contact surfaces, not including food packaging (Unit III.C. of this notice); and (3) incorporated into food-contact articles, except food packaging, with continuing pesticidal activity, except where the target microorganisms are in or on processed food (Unit III.F. of this notice). EPA registers such antimicrobials under FIFRA and establishes tolerances or exemptions from the requirement of a tolerance for the antimicrobials and their ingredients. In addition, EPA has current regulatory authority over the three categories of antimicrobials described in Unit V.A. of this notice, for which it intends to initiate rulemaking to propose that FDA have regulatory authority over as food additives under FFDCA section 409. This portion of the notice focuses on how new and pending petitions will be handled by EPA, both for those antimicrobial substances over which EPA plans to retain regulatory authority and for those that EPA plans to propose to allocate regulatory authority to FDA through rulemaking.

EPA staff are available to meet with petitioners to discuss the status of pending petitions and procedures for submitting a new petition. If a petitioner or any other person considering submitting a petition is interested in meeting with EPA, the petitioner should contact the appropriate Branch Chief in EPA's Antimicrobials Division to schedule a meeting. Information about how to contact EPA appears in Unit VI. of this notice.

1. *New petitions.* Any petition to establish a tolerance or an exemption from the requirement of a tolerance filed after publication of this notice for products now regulated by EPA should be submitted to EPA in the format described in 40 CFR 180.7. In addition, the petition must contain an "FQPA Addendum." EPA has issued detailed guidance in PR Notice 97-1 providing direction on the format and types of information that EPA expects to be

included in the petition to address the factors required by FFDCA to be considered as part of the safety standard of FFDCA section 408. Petitioners should address these factors as they relate to the specific chemical and use pattern that are the subject of their petition. Copies of PR Notice 97-1 are available from the EPA contacts listed in Unit VI. of this notice.

In addition, each petitioner must submit a draft Notice of Filing which EPA may use as the basis for preparing a **Federal Register** Notice announcing receipt of the petition. The petitioner must include in the draft notice or provide separately a summary of the petition and the information, data, and arguments submitted in support of the petition. Generally, the summary should be no longer than five pages. This summary will be included in the Notice of Filing EPA is required to publish (FFDCA section 408(d)(3)). EPA Branch Chiefs have examples of such summaries which they will provide on request. Petitions for actions on antimicrobial substances that may ultimately be under FDA's jurisdiction, if the EPA rulemaking is finalized as it is intended to be proposed, will be under a Notice of Filing stating that the final action may be taken under FFDCA section 408 or section 409. The petition must also be accompanied by the tolerance fee required under FFDCA section 408(m) and 40 CFR 180.33.

Once EPA receives a complete, new petition, the Agency will issue a Notice of Receipt in the **Federal Register** (FFDCA section 408(d)(3)). The Notice will include the summary of petition and data, information, and arguments supporting the petition (FFDCA section 408(d)(2)(A)(i)(I)). EPA will review the petition and take final action as quickly as its resources and other, statutorily mandated, priorities allow.

2. *Pending petitions.* EPA is working with FDA to complete work, as expeditiously as possible, on a group of pending petitions. Prior to enactment of FQPA, FDA received but was unable to complete action on a number of petitions and TOR requests. FDA continued to work on these actions and made progress in these reviews. In addition, since FQPA became law, FDA has received additional petitions and TOR requests. FDA has taken no action with regard to any petition submitted after enactment of FQPA for an antimicrobial substance for which FDA questioned its jurisdiction as a result of FQPA.

EPA places a high priority on completing the review of these pending actions. Therefore, EPA is working with FDA to transfer the petitions and associated FDA evaluations to EPA, so that EPA can complete the review of these petitions as quickly as possible.

The transfer of the petitions and associated evaluations to EPA must conform to the restrictions on transfer of CBI from FDA. Petitioners should request FDA to transfer petitions and FDA evaluations to EPA. Such requests should be directed to the FDA consumer safety officer (CSO) named in the filing notice of the petition or current CSO, if changed since the filing notice. FDA will not transfer any petition or FDA evaluations to EPA until FDA has a signed consent form from the petitioner to transfer such records. FDA will provide the consent form to the petitioner after receiving the petitioner's request for a transfer of records to EPA.

Once FDA has transferred a petition and associated files to EPA, EPA will review the petition. However, companies will need to take some additional steps to allow EPA to complete its review of the petition. First, each petitioner must prepare a short summary of its petition and the data, information, and argument submitted in support of the petition. Second, each petitioner must address the specific factors EPA is required by FFDCA to consider as part of its determination of whether the safety standard in FFDCA section 408 is met. Both of these points were discussed in detail under the "New Petitions," section in this unit.

EPA recognizes that the uncertainty about the jurisdiction of FDA and EPA under FFDCA over antimicrobial agents has caused delays in issuing final decisions on some of the pending petitions. EPA is taking several steps to lessen the impact of such delay. First, EPA will not require the submission of a new petition for any chemical which is the subject of a petition pending with FDA. Instead, EPA will accept the petition as it was submitted to FDA and will process it without further delay. Second, for pending petitions, EPA will waive the required tolerance fee required under FFDCA section 408(m). EPA has the authority to waive or reduce the tolerance fee when waiving the payment of the fee would be "equitable and not contrary to the purposes of this subsection" (FFDCA section 408(m)(1)). In this instance, EPA believes that it would be equitable to waive the required fee because it partially offsets any financial burdens resulting from the delay in taking final action on pending petitions. Finally, as noted earlier, completion of review of these petitions holds a very high priority at EPA.

C. EPA-Registered Products Which Would Cease to Be "Pesticides" Under FIFRA Pursuant to the Proposed Rulemaking

As discussed in Unit III. of this notice, EPA and FDA have agreed that EPA will propose a rule amending the definition of "pest" in 40 CFR 152.5(d). If that rule becomes final, certain antimicrobial substances would no longer be "pesticides" and would no longer be subject to regulation under FIFRA. On the effective date of such a final rule, EPA would discontinue registration of any products, previously registered by EPA as pesticides, and bearing labeling for use only against microorganisms that would not be pests.

Former registrants of such products should note that the Federal decision regarding what is a pesticide may not be definitive for the purposes of state regulatory schemes. Former registrants are encouraged to contact state officials to determine how such an EPA rulemaking would affect a product's regulatory status under state law.

EPA would continue to require registration for antimicrobial substances that continue to be "pesticides" under FIFRA, even though certain uses for such substances would be "food additive" uses under FFDCA. Consistent with current EPA practice, when the use of an antimicrobial substance is both a food additive and a pesticide use as, for example, a slimicide used in the production of food and non-food-contact paper, EPA would review labeling for the pesticidal use and FDA would review the non-pesticidal, i.e., food additive, use. Such a substance may be categorically excluded from the need for an environmental assessment under FDA's regulations implementing the National Environmental Policy Act (NEPA) based on the fact that the food additive use is substantially identical to the pesticide use (62 FR 40570, 40596; July 29, 1997 (citing to the categorical exclusion in 21 CFR 25.32(q))). After FDA approves a food additive that is also regulated as a FIFRA "pesticide," a petitioner would need to formally request EPA to amend its pesticide registration label for the antimicrobial to include the "non-pesticidal" use.

VI. Agency Contacts

In the event of questions about the process, EPA and FDA staff are available to meet with petitioners to discuss the status of pending petitions and procedures for submitting a new petition. If a petitioner or any other person considering submitting a petition is interested in meeting with either agency, he or she should contact the

appropriate Branch Chief in EPA's Antimicrobials Division to schedule a meeting or the appropriate team leader in FDA's Indirect Additives Branch.

The EPA Branch Chiefs can be reached at:

Dennis Edwards, Chief, Regulatory Management Branch I, Antimicrobials Division (7510W), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (703) 308–8087, Fax: (703) 308–8481, e-mail: edwards.dennis@epamail.epa.gov.

Connie Welch, Chief, Regulatory Management Branch II, Antimicrobials Division (7510W), Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (703) 308–8218, Fax: (703) 308–6466, e-mail: welch.connie@epamail.epa.gov.

FDA can be contacted at:

Sandra L. Varner or Andrew J. Zajac, Office of Pre-market Approval Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St., SW., Washington, DC 20204-0002, Telephone: (202) 418–3075 (S. Varner) (202), 418–3095 (A. Zajac).

Mark A. Hepp, Office of Pre-Market Approval Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St., SW., Washington, DC 20204-0002, Telephone: (202) 418–3098.

VII. EPA Public Record and Electronic Submissions

The EPA official record for this notice, as well as the public version, has been established for this document under docket control number "OPP–300624" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the Virginia address in "ADDRESSES" at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "OPP–300624." Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental Protection Agency, Food and Drug Administration, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 30, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances, Environmental Protection Agency.

Dated: August 21, 1998.

Sharon Smith Holston,

Acting Commissioner, Food and Drug Administration.

[FR Doc. 98–27261 Filed 10–8–98; 8:45 am]

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federal register

Friday
October 9, 1998

Part IV

Department of Education

Office of Special Education and Rehabilitative Services and Office of Special Education Programs: Grant Award for FY 1999; Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services and Office of Special Education Programs; Grant Award for FY 1999

AGENCY: Department of Education.

ACTION: Notice inviting applications for a new award for one Regional Resource Center in Region I for Fiscal Year 1999.

SUMMARY: On February 24, 1998, a notice was published in the **Federal Register** (63 FR 9376) inviting applications for a new FY 1998 award for six Regional Resource Centers (RRCs) to help States improve their special education programs. Five of the six RRCs were funded. An approvable application was not received from Region I.

The purpose of this notice is to invite applications for a Regional Resource Center in Region I (the Center) which will become a key component of OSEP's expanded systems change efforts, serving not only in its traditional capacity as a technical assistance provider and as a resource for information requests from all States within the region, but also as a broker of technical assistance for SEAs, LEAs and their partners.

This notice provides the closing date and other information regarding the transmittal of applications for a fiscal year 1999 competition under one program authorized by IDEA, as amended: Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities.

This notice supports the National Education Goals by helping to improve results for children with disabilities.

Waiver of Rulemaking

It is generally the practice of the Secretary to offer interested parties the opportunity to comment on proposed priorities. However, section 661(e)(2) of IDEA makes the Administrative Procedure Act (5 U.S.C. 553) inapplicable to the priority in this notice. In order to make awards on a timely basis, the Secretary has decided to publish this priority in final under the authority of section 661(e)(2).

General Requirements

(a) The project funded under this notice must make positive efforts to employ and advance in employment qualified individuals with disabilities in project activities (see section 606 of IDEA);

(b) Applicants and the grant recipient funded under this notice must involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the project (see section 661(f)(1)(A) of IDEA); and

(c) The project funded under this priority must budget for a two-day Project Directors' meeting in Washington, DC during each year of the project.

Note: The Department of Education is not bound by any estimates in this notice.

Special Education—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities

Purpose of Program: The purpose of this program is to provide technical assistance and information through such mechanisms as institutes, regional resource centers, clearinghouses and programs that support States and local entities in building capacity, to improve early intervention, educational, and transitional services and results for children with disabilities and their families, and address systemic-change goals and priorities.

Eligible Applicants: State and local educational agencies, institutions of higher education, other public agencies, private nonprofit organizations, freely associated States, and Indian tribes or tribal organizations, the Region I as defined in the following section.

Geographic Regions: The RRC funded under this priority shall serve the following States (referred to as Region I): Connecticut, Maine, Massachussetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The selection criteria for this competition are drawn from the EDGAR menu—TECHNICAL ASSISTANCE program area.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Priority: Under section 685 and 34 CFR 75.105(c) (3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only those applications that meet this absolute priority:

Absolute Priority—Regional Resource Center in Region I (84.326R)

Background

State educational agencies (SEAs) are increasingly being asked to make changes to their systems for providing early intervention, special education, and transition services to improve results for children with disabilities and their families. Recent findings on educational change suggest that in order to create successful and lasting "systemic change": (1) Decisions should be data-based; (2) multiple aspects of the system should be considered, including policies and practices at national, State, district, classroom, teacher, and student levels; (3) change should be driven from both the top-down and the bottom-up; (4) barriers to systemic change, such as fragmented policies and complicated administrative requirements should be eliminated; and (5) changes to one sector of the system should be directly linked to changes in all other system sectors (for example, personnel development and teacher certification must be linked to curriculum content and student outcomes). Furthermore, SEAs striving for such complex transformations will be required to establish new partnerships, translate validated research findings into practice, and provide personnel with specialized knowledge and skills.

In order to help States improve their special education programs, the Office of Special Education Programs (OSEP) has supported Regional Resource Centers (RRCs) which employ a variety of strategies, including needs assessment, staff training, policy and product development, and information dissemination. Historically, these strategies, although requested and well received by SEAs, have focused primarily on specific policy or program issues. They have seldom addressed the SEA's systemic needs.

For over a decade, OSEP has supported State system change efforts through a number of discretionary projects. These projects, although successful, were limited in number and scope, focusing specifically on secondary transition and the education of children with severe disabilities. The IDEA Amendments of 1997 specifically authorize technical assistance on assisting SEAs and their partners in planning and implementing systemic change. In this regard, the following priority would require the Center to assist SEAs and LEAs in including genereal educators in systems change efforts designed to improve results for children with disabilities.

The Center will become a key component of OSEP's expanded systems change efforts, serving not only in their traditional capacity as technical assistance providers, but also as brokers of technical assistance for SEAs, LEAs, and their partners. This new role would require the Center to serve as a link

between SEAs and appropriate technical assistance providers at national, State, and local levels that can assist States in achieving systemic change and improving results for children with disabilities and their families.

Consistent with the Regional Resource Centers' central mission of helping States improve their special education programs, the following priority requires the Center to address the general technical assistance needs of SEAs and their partners related to the development and implementation of State Improvement Plans under the new State Program Improvement Grants for Children with Disabilities (or SIG program). The SIG program supports competitive grants designed to assist State educational agencies and their partners in reforming and improving their systems for providing educational, early intervention, and transitional services, including their systems for professional development, technical assistance, and dissemination of knowledge about best practices, in order to improve results for children with disabilities. Because the Center is funded to provide technical assistance and to serve as a resource for information requests from all States within Region I, and must do so on an equitable basis across those States, the Center is prohibited from helping a State draft its SIG application, providing technical assistance on what to include in the application or how to draft the application contents, or performing any other function that could be viewed as providing a competitive advantage to one potential SIG program applicant over another. On the other hand, helping States, for example, with needs assessments, project implementation, and evaluation, and other activities related to the State improvement plan are consistent with the Center's general role and are authorized under the following priority.

Priority

The Secretary establishes an absolute priority for the purpose of supporting a Regional Resource Center in Region I. The Regional Resource Center, through written technical assistance agreements with SEAs, LEAs, and other entities must—

(a) Increase the depth and utility of information in on-going and emerging areas of priority needs as identified by States, local educational agencies, and participants in the new State Program Improvement Grant (SIG) partnerships that are in the process of making systemic changes. To expand information depth and utility, the Regional Resource Center must, for example, cooperate with the Federal Resource Center in collecting and sharing information on current practices, policies, and programs relevant to State implementation of IDEA.

(b) Promote change through a multi-State or regional framework that benefits States, local educational agencies, and participants in SIG partnerships pursuing systemic-changes. To promote change, the Regional Resource Center must conduct activities such as—

(1) Identifying general and special education technical assistance providers funded by the Department of Education at national, State, and local levels, and linking them with SEAs to help them achieve systemic change and improved results for children with disabilities and their families.

(2) Collaborating with other Department-funded programs that address special needs related to school-based reform (e.g., school-wide and other programs under Title I of the Elementary and Secondary Education Act).

(3) Participating in Department of Education program coordinated reviews whose purpose is to ensure that technical assistance activities of all the Regional Resource Centers are coordinated with those of other technical assistance providers to meet State identified needs in a comprehensive and efficient manner. The program coordinated reviews conducted by the Department focus on areas in which technical assistance is needed across programs such as standards and assessments, parent involvement, professional development, transition from school to work, and education reform.

(c) Promote communication and information exchange among States, local educational agencies, and participants in SIG partnerships based on the needs, concerns, emerging issues, and trends identified by these agencies and participants. Such bases may include, for example:

(1) Persistent problems that arise as States comply with IDEA requirements (e.g., identifying appropriate settings for infants and toddlers, transition issues, shortages of related service personnel, alternate assessment strategies, or determining appropriate uses of technology).

(2) Issues faced by local, regional, and State entities in implementing systemic reform, (e.g., placement issues, training and support for teachers, developing useful curricular materials based on sound instructional principles, managing children who exhibit challenging behaviors).

(3) Variance in practices, procedures, and policies of States, local educational agencies, and participants in SIG partnerships.

(4) Accountability of States, local educational agencies and participants in SIG partnerships for improved early intervention, educational, and transitional results for children with disabilities.

(d) Provide technical assistance to State educational agencies and their partners related to State improvement plans under the SIG program. Technical assistance activities may include—

(1) Developing general models for SEAs to use in developing their State improvement plans under the SIG program (See § 653 of IDEA);

(2) Helping SEAs conduct needs assessment activities stipulated in the State improvement plan (See § 653(b) of IDEA);

(3) Helping SEAs and their partners implement systemic changes specified in the State improvement plan (See § 653(c) of IDEA);

(4) Helping to evaluate the systemic outcomes of State improvement activities (See section 653(f) of IDEA); and

(5) Serving as a technical assistance facilitator to establish mentoring relationships between SEAs that have successfully implemented State improvement activities under the SIG program and those seeking funding under the SIG program.

(e) Assist States in developing and implementing strategies to comply with IDEA requirements such as establishing performance goals and indicators under section 612(a)(16). To assist States, the Regional Resource Center may conduct activities such as—

(1) Designing LEA systems for ensuring compliance, (e.g., LEA monitoring, eligibility, complaint resolution);

(2) Developing and assisting in the implementation of corrective action plans in response to U.S. Department of Education monitoring findings; and

(3) Assisting in coordinated program reviews conducted by the U.S. Department of Education.

(f) conduct, every two years, a results-based evaluation of the technical assistance provided. Such an evaluation must be conducted by a review team consisting of three experts approved by the Secretary and must measure elements such as—

(1) The type of technical assistance provided and the perception of its quality by the target audience:

(2) The changes that occurred as a result of the technical assistance provided; and

(3) How the changes relate to State plan goals and objectives.

The services of the review team, including a two-day site visit to the Center are to be performed during the last half of the Center's second year and may be included in that year's evaluation required under 34 CFR 75.590. Costs associated with the services to be performed by the review team must also be included in the Regional Resource Center's budget for year two. These costs are estimated to be approximately $4,000.

Applications Available: October 19, 1998.

Deadline for Transmittal of Application: November 23, 1998.

Deadline for Intergovernmental Review: January 22, 1999.

Estimated Number of Awards: 1.

Note: The maximum funding level and estimated number of awards in this notice do not bind the Department of Education to a specific level of funding or number of grants.

Project Period: Up to 52 months.

The first budget period will be 4 months and the subsequent budget periods will be 12 months.

Maximum Award: $400,000 for the first budget period; and $1,075,000 for subsequent budget periods.

Note: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amounts per budget period. The Secretary may change the maximum amounts through a notice published in the **Federal Register**.

Page limits: In Part III of the application, the application narrative is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 40 double-spaced pages, using the following standards: (1) A "page" is 8½"×11" (on one side only) with one-inch margins (top, bottom, and sides). (2) All text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

For Applications and General Information Contract: Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, SW., room 3317, Switzer Building, Washington, DC. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Individuals with disabilities may obtain a copy of this notice or the application packages referred to in this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

This program is approved under OMB control number 1820–0028.

Intergovernmental Review

All programs in this notice are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an inter-governmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for those programs.

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Note: The official version of a document is the document published in the **Federal Register**.

Dated: October 5, 1998.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 98–27237 Filed 10–8–98; 8:45 am]

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federal register

Friday
October 9, 1998

Part V

The President

Proclamation 7134—National Day of Concern About Young People and Gun Violence, 1998

Federal Register
Vol. 63, No. 196
Friday, October 9, 1998

Presidential Documents

Title 3—

The President

Proclamation 7134 of October 7, 1998

National Day of Concern About Young People and Gun Violence, 1998

By the President of the United States of America

A Proclamation

During the past 18 months, Americans have been stunned by gun violence among our youth, including the tragic incidents of students shooting their classmates and teachers in Jonesboro, Arkansas; Pearl, Mississippi; Paducah, Kentucky; Edinboro, Pennsylvania; and Springfield, Oregon. In communities across the country, some young people are trying to resolve their conflicts and problems by taking a gun into their schools or onto the streets—guns that, although they are generally illegal for children to possess, are still too easy to get.

While recent data indicate that the overwhelming majority of American schools are safe and that the rate of youth violence is beginning to decline, we must not relax our efforts to protect our children from such violence. Since the beginning of my Administration, we have worked hard to make our schools and communities safe places for children to learn and grow. We have put more community police in our neighborhoods, encouraged the use of curfews, school uniforms, and tough truancy policies, and proposed funding for after-school programs that provide children and young people with wholesome activities that keep them interested, engaged, and off the streets. We instituted a policy of zero tolerance for guns in schools that is now the law in all 50 States. We have issued a guidebook to help teachers, principals, and parents recognize the early warning signs of troubled students and intervene before despair or anger gives way to violence. Later this month, I will host the first-ever White House Conference on School Safety to focus on the causes and prevention of youth violence and to share effective strategies that we can put into practice nationwide. Through these and many other measures, we have strived to protect America's youth from being either the perpetrators or the victims of gun violence.

While government can and must be an active partner in the effort to prevent youth violence, the real key to ending the killing is in the hands of young Americans themselves. Every young person must assume personal responsibility for avoiding violent confrontation, have the strength of character to walk away from a dispute before it turns deadly, and have the courage and common sense to refuse to participate in gang activities, to use drugs, or to carry or use a gun.

As part of our nationwide observance of National Day of Concern About Young People and Gun Violence, I urge students across America to voluntarily sign a "Student Pledge Against Gun Violence" as an acknowledgment of these responsibilities. This pledge is a solemn promise by young people never to bring a gun to school, never to use a gun to settle a dispute, and to discourage their friends from using guns. By keeping this promise and giving one another the chance to grow to healthy, productive adulthood, young Americans will be taking an enormous step toward a stronger, safer future for themselves and our Nation.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 8, 1998, as a National Day of Concern About Young People and Gun Violence. On this day, I call upon all Americans to commit themselves anew to helping our young people avoid violence, to setting a good example, and to restoring our schools and neighborhoods as safe havens for learning and recreation.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of October, 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-third.

William J. Clinton

[FR Doc. 98–27485
Filed 10–8–98; 11:39 am]
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Federal Register

Vol. 63, No. 196

Friday, October 9, 1998

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FEDERAL REGISTER PAGES AND DATES, OCTOBER

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

814.....54042
Proposed Rules:
216.....54082
872.....53859

22 CFR

41.....52969

23 CFR

1270.....53580
1335.....54044
1345.....52592

24 CFR

598.....53262
888.....52858
1710.....54332
Proposed Rules:
35.....54422
36.....54422
37.....54422
3282.....54528

26 CFR

1.....52600, 52971
602.....52971
Proposed Rules:
1.....52660
53.....53862

27 CFR

53.....52601

29 CFR

1952.....53280

30 CFR

48.....53750
75.....53750
77.....53750
917.....53252
Proposed Rules:
935.....53618
943.....53003

31 CFR

Proposed Rules:
212.....54426

32 CFR

655.....53809

33 CFR

100.....53586
117.....53281, 54353
120.....53587
128.....53587
165.....52603, 53593

34 CFR

675.....52854

36 CFR

200.....53811
811.....54354

37 CFR

1.....52609
Proposed Rules:
1.....53498

38 CFR

3.....53593

39 CFR

501.....53812

40 CFR

9.....53980
52.....52983, 53282, 53596, 54050, 54053, 54358
60.....53288
62.....54055, 54058
63.....53980
81.....53282
82.....53290
148.....54356
180.....53291, 53294, 53813, 53815, 53818, 53820, 53826, 53829, 53835, 53837, 54058, 54066, 54357, 54360, 54362
261.....54356
264.....53844
265.....53844
266.....54356
268.....54356
271.....54356
300.....53847, 53848
302.....54356
Proposed Rules:
52.....53350, 54089
62.....54090
81.....53350
300.....53005
745.....52662

42 CFR

400.....52610
403.....52610
405.....52614
409.....53301
410.....52610, 53301
411.....52610, 53301
412.....52614
413.....52614, 53301
417.....52610
422.....52610, 54526
424.....53301
483.....53301
489.....53301
Proposed Rules:
416.....52663
488.....52663

43 CFR

2200.....52615
2210.....52615
2240.....52615
2250.....52615
2270.....52615
3100.....52946
3150.....52946
3160.....52946
3180.....52946
3200.....52946
3500.....52946
3510.....52946
3520.....52946
3530.....52946
3540.....52946
3550.....52946
3580.....52946
3590.....52946
3600.....52946
3800.....52946
3860.....52946

44 CFR

64 (2 documents).....54369, 54371
65.....54373, 54376
67.....54378
Proposed Rules:
67.....54427

46 CFR

28.....52802
107.....52802
108.....52802
109.....52802
133.....52802
168.....52802
199.....52802
503.....53308

47 CFR

0.....52617
1.....52983, 54073
2.....54073
20.....54073
64.....54379
73.....52983, 54380
80.....53312
95.....54073
97.....54073
Proposed Rules:
0.....53619
1.....53350, 54090
20.....52665
22.....53350
25.....54100
43.....54090
52.....54090
54.....54090
61.....54430
64.....54090
69.....54430
73.....54431
73.....53008, 53009
101.....53350

48 CFR

237.....54078
Proposed Rules:
1201.....52666
1205.....52666
1206.....52666
1211.....52666
1213.....52666
1215.....52666
1237.....52666
1252.....52666
1253.....52666

49 CFR

107.....52844
171.....52844
172.....52844
173.....52844
175.....52844
176.....52844
177.....52844
178.....52844
179.....52844
180.....52844
213.....54078
Proposed Rules:
229.....54104
231.....54104
232.....54104
395.....54432
396.....54432
571.....52626, 53848
572.....53848
580.....52630

50 CFR

2.....52632
10.....52632
13.....52632
14.....52632
15.....52632
16.....52632
17.....52632, 52824, 53596
20.....54016, 54022
21.....52632
22.....52632
23.....52632
216.....52984
227.....52984
285.....54078
600.....52984, 53313
648.....52639
660.....53313, 53317
679.....52642, 52658, 52659, 52985, 52986, 53318, 54381
Proposed Rules:
17.....53010, 53620, 53623, 53631
20.....53635
222.....53635
227.....53635
600.....52676
644.....54433
648.....52676
660.....53636

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT OCTOBER 9, 1998

AGRICULTURE DEPARTMENT

Rural empowerment zones and enterprise communities; designation; published 10-7-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:
- Coho salmon—
  - Oregon coast; published 8-10-98

COMMERCE DEPARTMENT

Patent and Trademark Office

Trademark cases:
- Trademark trial and appeal board proceedings; miscellaneous changes; published 9-9-98

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:
- New Mexico; published 9-9-98

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Cyromazine; published 10-9-98
- Hexythiazox; published 10-9-98
- Mancozeb; published 10-9-98
- Paraquat; published 10-9-98

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:
- California; published 10-9-98

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:
- New drug applications—
  - Ivermectin; published 10-9-98

VETERANS AFFAIRS DEPARTMENT

Medical benefits:
- Civilian health and medical program of VA (CHAMPVA)—
  - Medical care for survivors and dependents of veterans; published 9-9-98¶

RULES GOING INTO EFFECT OCTOBER 10, 1998

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:
- Fee revisions (1999 FY)
  - Effective date delay; published 10-1-98

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Bombardier; published 8-27-98
- Alexander Schleicher Segelflugzeugbau; published 8-27-98
- Pilatus Britten-Norman Ltd.; published 8-27-98
- Schempp-Hirth K.G.; published 8-27-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Potatoes (Irish) grown in—
- Colorado; comments due by 10-13-98; published 8-11-98

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):
- Tuberculosis in cattle and bison—
  - State and area classifications; comments due by 10-13-98; published 8-13-98

Plant-related quarantine, domestic:
- Mediterranean fruit fly; comments due by 10-13-98; published 8-13-98
- Mexican fruit fly; comments due by 10-13-98, published 8-14-98

Plant-related quarantine, foreign:
- Grapefruit, lemons, and oranges from Argentina; comments due by 10-13-98; published 8-12-98

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Common crop insurance regulations; basic provisions; comments due by 10-13-98; published 9-30-98

Crop insurance regulations:
- Cotton; comments due by 10-13-98; published 9-30-98

AGRICULTURE DEPARTMENT

Grain Inspection, Packers and Stockyards Administration

Grain standards:
- Sorghum; comments due by 10-13-98; published 8-14-98

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:
- Alaska; fisheries of Exclusive Economic Zone—
  - Bering Sea and Aleutian Islands groundfish; comments due by 10-16-98; published 9-3-98
  - Pollock; comments due by 10-16-98; published 10-1-98
- Magnuson-Stevens Act provisions—
  - Northeastern United States; domestic fisheries; exempted fishing permit application to conduct experimental fishing; comments due by 10-16-98; published 10-1-98

Marine mammals:
- Commercial fishing authorizations—
  - Harbor porpoise take reduction plan; comments due by 10-13-98; published 9-11-98

COMMODITY FUTURES TRADING COMMISSION

Over-the-counter derivatives; concept release; comments due by 10-13-98; published 9-17-98

DEFENSE DEPARTMENT

Acquisition regulations:
- Defense items produced in United Kingdom; domestic source restrictions; waiver; comments due by 10-16-98; published 8-17-98

Federal Acquisition Regulation (FAR):
- Business class airfare; comments due by 10-13-98; published 8-12-98
- Recruitment costs principle; comments due by 10-13-98; published 8-12-98
- Value engineering change proposals; comments due by 10-13-98; published 8-12-98

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:
- Light-duty vehicles and trucks and heavy-duty engines—
  - Original equipment manufacturers and aftermarket conversion manufacturers; optional certification streamlining procedures; comments due by 10-13-98; published 9-11-98

Air quality implementation plans; approval and promulgation; various States:
- Alabama; comments due by 10-14-98; published 9-14-98
- California; comments due by 10-14-98; published 9-14-98
- Pennsylvania; comments due by 10-16-98; published 9-16-98

Hazardous waste:
- Identification and listing—
  - Petroleum refining process wastes; comments due by 10-13-98; published 8-13-98

Superfund program:
- National oil and hazardous substances contingency plan—
  - National priorities list update; comments due by 10-15-98; published 9-15-98

Toxic substances:
- Significant new uses—
  - Terpenes and terpenoids, etc.; comments due by 10-16-98; published 9-16-98

FARM CREDIT ADMINISTRATION

Farm credit system:
- Organization and disclosure to shareholders—
  - Bank director compensation limits; comments due by 10-15-98; published 9-15-98

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

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S. 1695/P.L. 105–243
Sand Creek Massacre National Historic Site Study

Act of 1998 (Oct. 6, 1998; 112 Stat. 1579)

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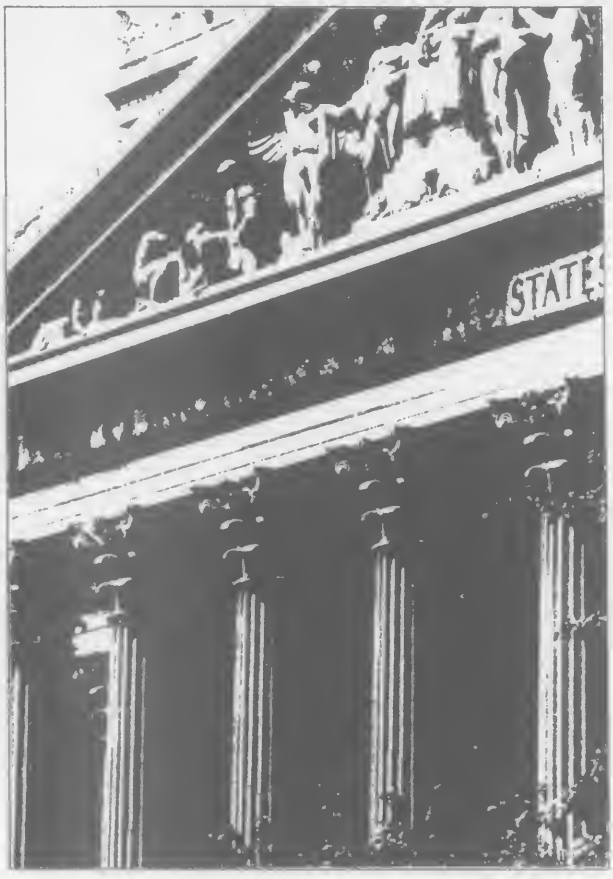

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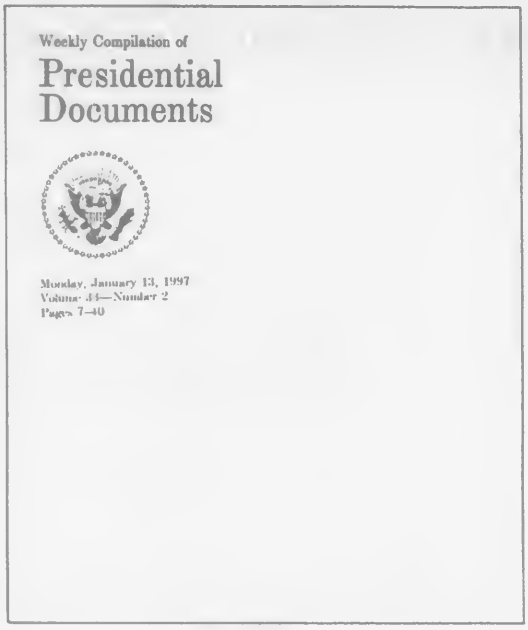

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